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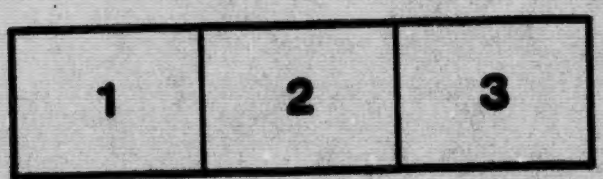

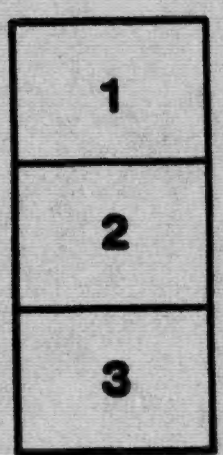

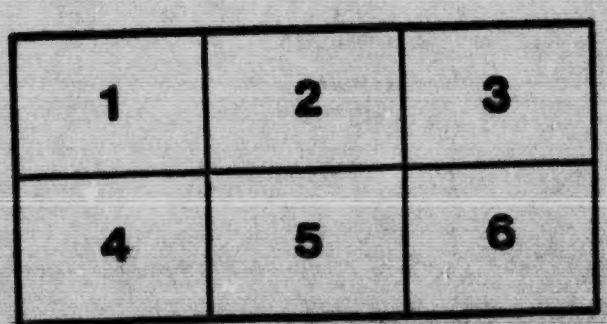

The Annesley Case

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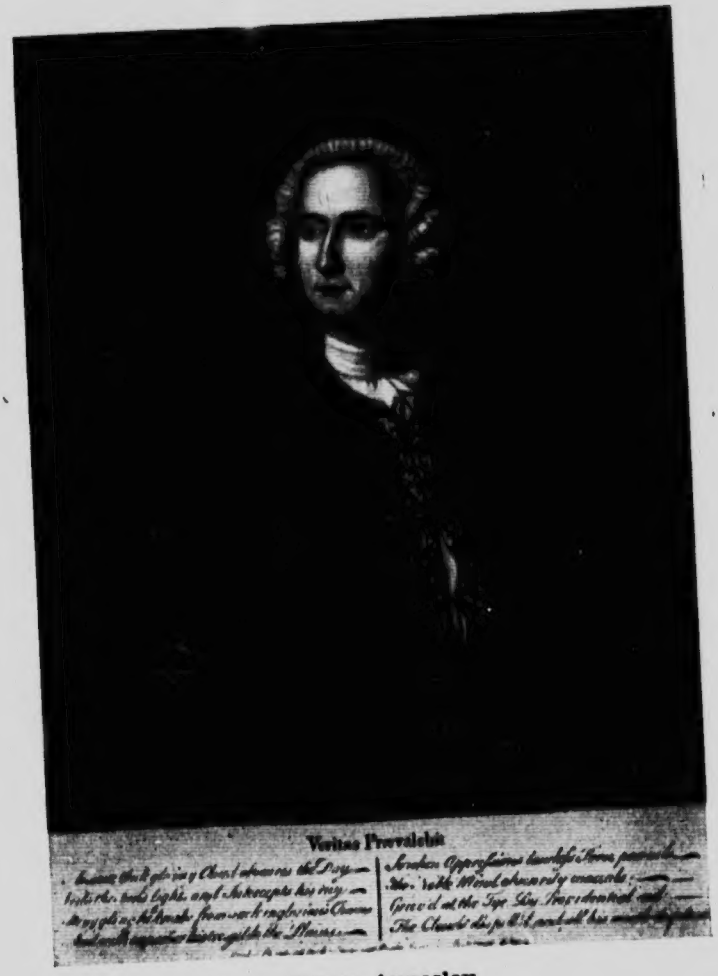

James Annesley

(From a mezzotint portrait by Brooks).

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PREFACE.

Purists or patriots may conceivably demur to the inclusion in a series of English Trials of the Annesley Case, tried in Ireland. As the nature of the law and of its administration was not that of the Brehons, these ancient Hibernian jurists, but of the English Courts, it is hoped that the circumstances may plead in favour of the appearance of the case among English Trials. The law in Ireland during the eighteenth century was English, and the persons whose interests were at stake, the family of Annesley, were neither Irish speakers nor of Irish blood. The case is too curious to be omitted.

The Editor owes much to the success of Miss E. M. Thompson, who discovered the hitherto unpublished affidavits of 1746; and desires to thank W. Roughead, Esq., W.S., for his kindness in drawing up the chronology of the Annesley Case.

A. L.

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THE GREAT ANNESLEY CASE.

I.

Introductory. Dramatis Personæ.

The great Annesley case, the set of four trials in 1742-1745, connected with the claim of James Annesley to be the legitimate son and heir of Arthur Lord Altham (*ob.* 1727), as against Richard *de facto* Earl of Anglesea, younger brother of Arthur Lord Altham, is almost forgotten. Few readers care to wade through the very badly edited reports in many columns of *The State Trials* (vols. xvii., xviii., 1813), and to compare them with the various discrepant versions in contemporary books of 1743-1745. The records of the trials, it is true, have an interest for the compilers of histories of society in Ireland in the first half of the eighteenth century, but even these hunters of anecdotage cannot find opulent gleanings. Our wicked Lords Altham and Anglesea lived in muddy backwaters far from the central stream of social and political history.

The opening chapters of our chronicle are of the years 1713-1716. Great events were occurring. Harley, and St. John, and Dean Swift if they could have held together; if Harley had not wavered, if Bolingbroke could have been steady in anything but personal ambition and love of pleasure might have brought King James from over the water, and disappointed the hopes of George Elector of Hanover. But how does Fortune banter us!" wrote Bolingbroke. Queen Anne died (1st August, 1714) when the Tories were quarrelling among themselves, and it was George I. who crossed the water, and it was Swift who had to slink back across St. George's Channel to Dublin, and Ormonde and Bolingbroke who were driven to fly to France.

All this was nothing to the persons in our story. The death of Queen Anne was only a kind of landmark by which, in 1743,

decayed servants and other ignorant witnesses—bribed or intimidated—tried to establish the chronology of their wandering narratives in the great trial. The eclipse of the sun (22nd April, 1715) was another landmark in the midst of memories and inventions, but though the witnesses on both sides were manifestly "coached" as to what they were to swear, to make them remember years by their numbers—1713, 1714, 1715, 1716—was found impossible, or was not attempted. The figures 1715 did not, to them, recall the Jacobite Rising under the Earl of Mar. The better educated did remember an Irish trial in April, 1715 (before the Rising), in which certain gentlemen of Wexford and Father Downes were acquitted of a charge of raising recruits for "the Pretender" or for French service. I have tried to find political or religious bias—Hanoverian or Jacobite, Catholic or Protestant—in the evidence, but such things do not appear to be elements in the medley of perjured testimony. Lord Altham, the alleged father, natural or legitimate, of the romantic claimant in the case, was beneath politics; some of his motley crowd of huntsmen, grooms, and hangers-on of the lowest kind were more political than he.

His lordship, the heir apparent to the earldom of Anglesea, and his lordship's wife, Mary Sheffield, a natural daughter of the Duke of Buckingham, were "outsiders": were outside of everything. The patrician was destitute of social prejudices; was "hail fellow well met" with a hairdresser, and a charwoman, and the parish priest, Father Downes, as well as with his own servants, man and woman, Pooty and Juggy. The county families, as a rule, held aloof from a nobleman so regardless of ranks and orders, of truth, honour, and honesty. He swilled brandy and mead with surgeons lost to self-respect, with parasites of low degree. He is even said to have shared his mistress with his butler, his dog-boy, and his brother, the Hon. Captain Annesley, as Earl of Anglesea the defendant in the trial of 1743, and a more cold-hearted, though not perhaps a more brutal ruffian, than himself.

Probably this Lord Altham, the putative father of the claimant, was never sober, but we know that a respected Scottish judge, when put on a regimen of water drinking, discovered that he had never previously been entirely sober during

his judicial career. Lord Altham, with all his estates and all his expectations, was for ever "outrunning the constable," always borrowing, always trying to raise money by the shabby devices of his kind.

Those were days in which, said the counsel for the defendant, you might go fifty miles on Irish ground and never find, in bullion, a half-guinea, though a coin of that denomination was undeniably possessed by one of the witnesses, who conferred it (quite blamelessly) on a pretty girl. In 1738 Lord Altham's brother and successor, wishing to bribe two vena' constables, was obliged to send an emissary on a walk of three miles to borrow a guinea from the too confiding keeper of a pothouse near Dublin. Yet Lord Altham drove his coach and six, and kept a pack of hounds; each hound, we are told, yearning to sate his maw with the flesh of any other member of the pack. His lordship had a household of transitory domestics, who never stayed long with him, though his house was Liberty Hall. He did not pay their wages, or his manners and language were intolerable even to persons by no means over-refined. He did hunt with his starving pack and his riff-raff of hangers-on—that is the best thing we can say for Lord Altham, except that nothing shows him to have been oppressive to his tenantry, which is strange. In 1717, to be sure, somebody took a shot at him through a window, destroying one of his eyes, but we do not learn that the somebody was his tenant. He was indiscriminately hospitable, it must be admitted; he had a lazy good-nature and a preposterously violent temper, no sense of honour, no self-control, and less brains than a rabbit. He was a little, black, very noisy nobleman. At no time, in no country, can he have been of a common type; his title, even in his period, won for him no respect or consideration. He was allowed to exist, but no man regarded him. None loved him, or mourned him, or even hated him.

He was not Irish by blood; he was English by blood; there is no romance in him; for him there existed no feudal attachment. He had not even a banshee to interest herself in his fortunes! Lord Altham ought to have been portrayed by the pen of Thackeray.

As regards the central problem of the case—had he a son born in marriage or not?—he spoke with two voices, affirmed

and denied, and what he said—"yea" or "nay"—is not evidence; he was a liar from the beginning.

His brother and successor, the defendant, later exhibits his character in his works, and of a blacker heart we have few examples. Counsel for the claimant and, in two trials, the judges spoke quite freely about the wickedness of this nobleman; and his moral badness was only matched by his unprecedented folly. Both brothers by their unvarying falseness, treachery, and evil temper seem actually to have sought the troubles which fell upon them. The younger like the older peer was surrounded by parasites who did his dirty work and, when opportunity and temptation occurred, betrayed him; one mocked in open Court at his cowardice. The conversation of both nobles was double-shotted with oaths and obscenities. Both seem to have been cowards. Lord Altham ran away from the challenge of his victim, young Palliser, who returned from a visit to Dunmaine minus part of his ear, covered with blood, and with bruises inflicted by the grooms. Lord Anglesea, in the "ruction" at the Curragh, quailed before the claimant's backer, the soft-spoken hero of Sheriffmuir fight, Mr. Mackercher, "the melting Scott" of Smollett's satire, *The Reproof*. Charles Reade, in his novel, *The Wandering Heir*, makes the great Mackercher an obscure Irish attorney, who says "alanna." Mr. Reade used to brag endlessly about his immense historical researches; had he not read *Peregrine Pickle*?

The women are worthy of the men. About half of them seem to have perjured themselves, from passion, or stupidity, or for reward. Mary Heath, the strength of the defendant's case, gave evidence with excitement and bias, but she had, at least, been faithful as maid to the unhappy Lady Altham through her lonely years of poverty and infirmity. Her ladyship's own character "was not sufficient for two," though on that head as little as possible was revealed. We hear of oceans of drink, but we do not hear of gambling, the common vice of the women of the age. We have no glimpses of fashionable society either in Dublin or in the country; the Althams were beyond the pale. The "trigamy," as Charles Reade calls it, of Lord Anglesea is not brought before us. Throughout there is scarcely a gleam of Irish humour among

the hundreds of peasants and servants who give their pumpkin-headed evidence. In that fighting society we never hear of a duel, though two challenges are given.

Of the hero, "the Wandering Heir," the claimant, calling himself James Annesley, we see very little, but twice we behold him running away, once when the slightest presence of mind would have saved him from a charge of murder. He could have known very little of the truth concerning his claims to the Earldom of Anglesea, for since his earliest recollections he had lived apart from his mother (whoever *she* was) with a father incapable of truth, Lord Altham; and among servants not more veracious.

Such, with a mixed multitude of grooms, servants, colonels, squires, squireens, and their ladies, are our characters. One, however, Mr. Mackercher, has later a section to himself. The mist of falsehoods was so dense that judges and juries lost their way in it, and two precisely contradictory verdicts are recorded. The great law suit finally loses itself in the sands; it remained undecided; the title and estates never came to the claimant; they were muddled away among the Annesleys.

II.

The Annesleys.

The Annesleys were of an old family in Nottinghamshire. Annesley, in that county, in Byron's time and before it, was in the hands of the Chaworths, one of whom, we know, was killed in a duel without seconds in an ill-lighted room of an inn by "the wicked Lord Byron." The heiress was later Mary Chaworth, about whom the poet Byron wrote so much verse and gossiped so much. The first Earl of Anglesea, Arthur Annesley, a politician of the Restoration, was created earl by Charles II. He had great possessions, and five sons—James, Altham, Richard, Arthur, and Charles. The first earl "having made very large acquisitions, sufficient to support two distinct families, procured the baronage of Altham for his second son Altham and his issue male, with a remainder over to his third son Richard." The first Lord

Altham had no male issue, and the title and estates went to his brother Richard, whose son Arthur Lord Altham was the putative father of the claimant, James, calling himself Annesley. This second Lord Altham dying in 1727, was succeeded by his brother Richard, later Earl of Anglesea, the "Uncle Dick" of the claimant. The first Earl of Anglesea, Arthur, was succeeded by his eldest son James, who left three sons—James, John, and Arthur. The eldest of these, James, third Earl of Anglesea, "levied fines, and suffered common recovery of his estates, and thereby docked the entail created by his father's marriage settlement, and made himself actual tenant in fee-simple. Afterwards (1701) he made several wills and codicils" (of the most casual and helpless perplexity) "and having no issue male of his own, he thereby limited his estates, upon the failure of issue male of his brother Arthur, to go to the Altham branch."

"It is hereditary in this nobleman's family to have no children," as an Irish critic observed, and when Arthur succeeded to the earldom he had no issue male. He very strongly detested, with good reason, both Arthur Lord Altham, father of the claimant, and the claimant's Uncle Dick. This Arthur Earl of Anglesea died in 1737, surviving the claimant's father (*ob.* 1727) by ten years. Uncle Dick thus succeeded to the title of Anglesea, but was involved through the unintelligible codicils of Earl James (1701) in a wilderness of law suits with other Annesleys, especially Francis and Charles. What he could call his own was extremely uncertain, and the whole family had a passion for litigation. In 1737, at the death of Arthur Earl of Anglesea, the claimant's address was "British Plantations, North America," whither he had been transported in 1728, at the age of thirteen, by his Uncle Dick, who hoped to hear no more of him.

III.

Preliminaries.

The affair of the claimant was thus of the most romantic and popular kind. The question was whether an ill-treated lad, James Annesley, long an indentured slave in our transatlantic

plantations, or whether Richard Earl of Anglesea *de facto*, a person certainly of the most execrable character, was the true heir of the earldom and of vast but encumbered estates.

The natural man within us takes part with romance and the claimant. The evidence of history, however, proves that almost all such romantic claimants are not in the right. The Douglas claimant is of the few who have won their cause.

Hundreds of witnesses were heard at the trial, and Charles Reade says almost truly that "the judges had before them the greatest mass of perjury ever delivered in Great Britain." He meant "in Ireland," and certainly the volume and variety of perjury exceed any example except in the cases connected with Titus Oates's "Popish plot."

Assuredly there was abundance of perjury on both sides. Apart from the deliberate sale of falsehoods on oath in the Annesley case, the contradictions of testimony were easily explicable, and were, in fact, inevitable.

In the sole question to be determined, namely, was James Annesley, the claimant of the Anglesea title and property, the son of Lady Altham, wife of Lord Altham, the defendant's elder brother, or not?—the events, by 1743, were very remote in time. The claimant, whoever his mother may have been, was born in 1715. The trial was in 1743, twenty-eight years after the event. Thus, even granting that all the witnesses on both sides were honest (and many were dishonest), there was room for countless hallucinations of memory; all the more as many important witnesses were uneducated Irish people of very low social status, while most of the others were deeply prejudiced and interested. It followed that most witnesses were untrustworthy; many were open to the influences of fear and favour; and these influences were freely exercised by both parties to the case. Quarrels within the Annesley family biassed its members and their neighbours, gentle and simple, so that, partly through lapse of time and partly through the passions aroused, the evidence was in a high degree confusing.

Lord Chief Baron Bowes, in summing up and addressing the jury (gentlemen of landed estate), recommended them to test the evidence in a way which, unluckily, was quite impossible in this instance. He said, "If I was upon the jury I should lay before me and consider the story as told on each side.

I should consider how far the story on one hand, *independent of the witnesses*, exceeded the other in point of probability. If on either hand the story told appeared extremely improbable, I should then require from that side the strongest proof imaginable, and that because probability ought to weigh, except it be contradicted by testimony not to be doubted of; and therefore, if on either side the story should be extremely improbable, and probable on the other side, I should give my opinion on the side of probability." Unfortunately, each story was extremely improbable; and on neither side was "the strongest proof imaginable" produced, owing to lapse of time, and, as was observed by one of the judges, owing to the conspicuous bias and eagerness of witnesses on both sides.

On one hand and on the other the stories were incredible, if estimated by our common knowledge of human nature in general. The characters of the chief actors in the drama were so eccentric, decadent, abnormal, mutable, and conscienceless that their conduct was bound to be always in a high degree improbable. There was no action so inconsistent, unwise, cruel, or infamous of which they were not capable. It was only probable that they would always take the most improbable and inexplicable course.

Thus the jury was deprived and we are deprived of the test of probability. The maddest things were probable. The Lord Chief Baron was perfectly aware of this circumstance. "It will be proper for you gentlemen," he said, "while you are considering this case, to take with you the characters of the actors in it, and thence to judge what was or was not to be expected from them."[1] He did not add that there was nothing so felonious and idiotic that it might not be expected from them. But, no doubt, that idea was in his mind. On the whole, with all allowances, the case for the romantic claimant was perhaps rather the more improbable of the two, though even here I hesitate.

Once more, in Howell's *State Trials* (vols. xvii., xviii., 1813), the records of the cases (for the trial of November, 1743, was only the largest star in a constellation of four) are not coherent, are faulty, and do not apprise us of many facts neces-

[1] See page 226.

sary to be known. In a footnote I give the names and nature of our sources, which are quite bewildering.[1]

On the other hand, we may use, with much caution, the ninety-seventh chapter of *Peregrine Pickle*, by Smollett (1751). In this long narrative the patriotic author of *The Tears of Scotland* describes and defends a friend of his, a Scot who plays the foremost part in conducting the claimant's case. The Scot is Mr. Mackercher—Mackercher being a form of Mac Fearachar or Farquhar, so that Mr. Mackercher was a member of the great warlike clan of Farquharson. Concerning Mr. Mackercher the official records leave us asking, *que diable allait il faire dans cette galère?* and Smollett alone explains, though as he was a friend, a Scottish patriot, and a novelist, we must give his explanation "but a doubtsome trust."

IV.

The Althams in Ireland.

In approaching the trial of 1743 we must first sketch the story which in that trial reached its culmination, though it led to no practical results for the victorious claimant, and though the verdict of 1743 was damaged by the verdict of a trial in 1745.

Richard Annesley, third Earl of Altham in the peerage of Ireland, had, as we saw, two sons, Arthur Lord Altham, the alleged father of the claimant, calling himself "James

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1 Sources.—We naturally turn first to *A Complete Collection of State Trials*, compiled by T. B. Howell, Esq., F.R.S., F.S.A., in which the four Annesley Trials are given; vol. xvii. xviii., 1813. But the chief trial, that of November, 1743, "is badly reported by Howell," says Charles Reade. He therefore used the Report in Folio (Knapton, Longman, and others, London, 1744. Smith & Bradley, Dublin, 1744). This version is excellent in its verbatim reports of the examinations of the witnesses, and contains essential matter omitted not only by Howell, but in *The Trial at Bar*, an octavo published in London, 1744, for R. Walker (there is an earlier edition, London, 1743). But the reports of the speeches of counsel are in places better given in *The Trial at Bar*, while in that volume the speeches of the judges are badly summarised. *The Trial at Bar* advertises an account of the claimant's adventures in exile, "done in the manner of a novel." This may be disregarded.

Annesley," and Richard, who succeeded later (1737) to the earldom of Anglesea, and was the defendant in the case. On 21st July, 1706, Lord Altham married Mary Sheffield, natural daughter of the Duke of Buckingham, a lady described in the trials now as handsome, and now as homely. Smollett assures us (and Lord Altham in the trial is reported as corroborating) that the marriage was detested by Arthur Earl of Anglesea, the head of the house, who hated the Duke of Buckingham. The married pair lived for some time in England, where Smollett represents Lord Altham (who was "very capable of having it happen to him") as squandering his wife's fortune and running deep into debt. He was always in debt, always impecunious. The pair were on the worst terms, and, if Smollett is to be credited, charges trumped up by Lord Altham's mother and sisters against his wife induced him to sue for a divorce. If this be true (and there are other testimonies that Lady Altham's character was dubious), Lord Altham came to believe that he had been deceived in suspecting his wife. In 1713 Lady Altham sailed to Ireland, and towards the end of the year was reconciled to her lord, lived with him in the house of a Captain Briscoe in Dublin, and, about Christmas Eve, 1713, went with him to a place in County Wexford, Dunmaine, within some four miles of the town of Ross. Here Lord Altham was the tenant of Aaron Lambert, Esq., a witness in the case.

According to the claimant's case he was born of Lady Altham in April-May, 1715. There were rejoicings when he was christened, but in February, 1716, Lord and Lady Altham quarrelled and parted. She was not allowed to take her child with her. He went with Lord Altham to various places, and was treated as a legitimate son. (This is the claimant's version.) In 1722 a mistress of Lord Altham, Miss Gregory, in Dublin set his lordship against the child, who was dismissed from his father's house, and "roved about," an object of charity and curiosity, till Lord Altham died on 16th November, 1727. Lady Altham, more or less paralysed, died in poverty in England in 1729. Richard Annesley, brother of Lord Altham, now succeeded to the Altham title and estates, kidnapped the claimant, and sent him as an indentured "slave" to America. Here, in 1739-1740, he was brought, with his

claims, to the notice of Admiral Vernon, through whose aid, in autumn, 1741, he arrived in London. The news that the claimant—in Ireland believed to be dead—was alive and was about to return to England reached the Earl of Anglesea thus—*The Daily Post* of 12th February, 1741, contained the following passage:—

PLANTATION NEWS.

(Extracts from our correspondent in Jamaica.)

A sailor about 2 months ago entered himself on board the "Falmouth," who was soon chaleng'd by one of his mates for the only son of the late Lord ——, who was heir to the title & estate of the Earl of ——. Upon this he made a discovery of himself, declaring how he was sent out of Ireland by a certain nobleman, under whose care he was entrusted, & at eight years old just upon the death of his father sold as a slave into Pensylvania for seven years, before the expiration whereof he attempted to make his escape, but was retaken, & by a law of the country oblig'd for his elopement to serve seven years more; & that a little before the end of this second slavery, he again ran away & got down to the next sea-port when he enter'd himself with the Master of a Merchantship coming to this island. A Gentleman on board the vessel has made an affidavit that he knows him to be related to the Family & that he remembers that advertisements were published when the boy was missing & believes this to be him. Another who was his Schoolfellow, & at whose Father's house he lodged, makes affidavit to the same purpose. The Admiral has order'd he should walk the quarterdeck as a midshipman till the truth can be manifested.

The same intelligence had reached the ears of a noble and benevolent Scot, Mr. Mackercher. Without the backing of Mr. Mackercher and the help (according to Smollett) of an acquaintance of his, H——n,—*at one time the agent of the defendant, Lord Anglesea*—it is probable that the claimant could not have collected witnesses and brought his case into Court.

V.

Mr. Mackercher.

We must therefore condense Smollett's account of Mr. Mackercher, as he appeared with the claimant in the Fleet prison for debtors, apparently in 1750. As early as 1746 Smollett, in a note to his satire, *The Reproof*, describes Mr. Mackercher as having ruined himself financially in befriending the claimant.

The Annesley Case.

Mr. Mackercher "is this day one of the most flagrant instances of neglected virtue which the world can produce," writes Tobias. Mackercher was, says Smollett, "a manse bairn," the son of a minister of the Established Kirk of Scotland, and his mother was nearly related to a noble family. His father died while the hero was a schoolboy, but an uncle paid for his education. In 1715, when James VIII. and III., vulgarly styled "the Pretender," was contending for the crown of his ancestors in Scotland, young Mac—fired by his studies of Julius Cæsar, Curtius, and George Buchanan—ran away from school and tried to enlist in the little army of the Duke of Argyll, then holding Stirling, and the line of Forth against the Jacobites under the incompetent Earl of Mar. Young Mackercher fought for George I. at the battle of Sheriffmuir, where he helped to rescue a pair of regimental colours from their Highland captors (13th November, 1715). He later entered the Scots Greys, and he fought in 1719 at Glenshiel—still against the Jacobites under James Keith, later the famous field-marshal of Frederick the Great. He next resumed his education, but failed to take Presbyterian orders because of "the unreasonable austerity of some of the Scotch clergy." Mr. Mackercher was "perhaps a little gay." He next, for two years, studied Roman law at Leyden; acquired a friend who made him easy as to finance for the time, travelled in Southern France, found a patron in an English nobleman, who proved disappointing and ungrateful; was reduced to writing for the booksellers; was the recipient of the bounty of his mistress, who reminds us of Lady Bellaston in *Tom Jones;* and at last, in some way which is not clearly explained, became connected with the Virginia tobacco trade, and was a wealthy man, bubbling over with benevolence. He [illegible] acquainted, Smollett says, with Lord Anglesea's some time agent, Mr. H——n, a very dubious character. To this Mr. H——n, who was on bad terms with his former employer, Lord Anglesea, the claimant betook himself when he returned from America to England in September or October, 1741. H——n sheltered the claimant at first, and then, knowing that Mr. Mackercher was ever eager to aid all victims of persecution, handed him over to Mackercher.

Now, according to Mary Heath (the maid of Lady Altham from 1713 to her lady's death in 1729), Mr. Mackercher told her, on 13th April, 1742, that the claimant was recommended to him by two lieutenants in the Navy, Mr. Simpson and another—clearly of Vernon's fleet—that he gave the claimant ten guineas, and took him into his house.[1] This evidence is eight years earlier than that of Smollett, but Smollett also speaks of Lieutenant Simpson as the discoverer of the claimant in America, while another naval officer, a Mr. B——, actually picked the claimant out of a crowd of sailors as his old school-fellow in Ireland, and there and then recognised him as Lord Altham's heir.

VI.

The Staines Homicide.

Mackercher took the claimant from Higginson's into his own house, "rendered him fit to appear as a gentleman," and sent some one to Ireland to make inquiries as to his claims. These inquiries, Tobias proceeds to say, Lord Anglesea did his best to baffle by all the lowest dodges of the law. Mr. Mackercher even feared that the claimant's life was threatened, and sent him down to Staines to be out of the way of danger.

This was unlucky for Thomas Egglestone, whom on 1st May, 1742, the claimant was so unfortunate as to shoot by the accidental discharge of his gun. On 4th May a coroner's jury, on the evidence of a boy, a son of the dead man, found the claimant guilty of murder. On 15th July the claimant, with a keeper who was in his company on the fatal occasion, was tried for murder, being indicted as "James Annesley, labourer." In Court he said, "I claim to be Earl of Anglesea and a peer of this realm." In the cross-examination of the lad, John Egglestone, who was with his father at the time of his shooting, it came out that a day or two after the shooting the boy made the acquaintance of one Giffard. Now, this Giffard was undeniably a solicitor before the Court of Common Pleas, and was employed by the defendant, the Earl of Anglesea, to get up a case of wilful murder against the claimant, while Lord

[1] See page 208.

Anglesea was also maintaining the boy Egglestone at the White Horse Inn in Piccadilly. It was made certain by the surgical evidence that young Egglestone perjured himself when he swore that the claimant shouted to his father, who was poaching a river with a net, "Damn your blood," and then levelled his gun and shot the man. The gun certainly was discharged by accident in the manner described by the claimant, speaking in his own defence. The coroner, [illegible]ng, proved that Lord Anglesea's agent, Giffard, applied to him to commit Annesley to Newgate, which he refused to do. There was also evidence that one Keating, from Ireland, had been trying to bribe Egglestone to perjure himself; but there was equally valuable and equally Irish evidence to prove that Keating made this attempt for the purpose of discrediting Lord Anglesea, in whom he found an illiberal patron. This Paul Keating had just come over from Ireland to make what profit he could out of the case between the claimant and Lord Anglesea. We shall later find him accused of trying to bribe a witness to swear falsely on the side of the claimant, and we do not know whether he was earnest in that endeavour or was attempting to prejudice the claimant's case and to stain the honour of his champion, the heroic and benevolent Mr. Mackercher.

The jury found the claimant not guilty of murder, but of "chance medley."[1] The shooting was certainly accidental, but the shooter was so foolish and cowardly as to run away when he saw what he had done, and to conceal himself in the loft of a wash-house, whence he was dragged ignominiously. Had he gone to a magistrate and confessed the accident he would have escaped from the charge of murder. Again, there is very little doubt that he tried to bribe the son of the dead man to tell the truth about the accident.[2] By this time the claimant was married to the daughter-in-law of a Mr. Chester, who gave evidence in the case.[3]

There is no doubt that Lord Anglesea did his utmost, through Giffard and others, to get the claimant hanged, and there is

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[1] Trial of Annesley and Redding for the murder of Thomas Egglestone. *State Trials*, vol. xvii. col. 1094-1140.

[2] Fisher's evidence. *State Trials*, xvii. 1109.

[3] Chester's evidence. *State Trials*, xvii. 1119.

as little doubt that fifteen years earlier he had caused the claimant to be transported to America. Had Lord Anglesea been a normal man mentally, however great a villain, he would not have acted thus unless he *knew* that the claimant was Lord Altham's legitimate son. If he knew him to be a bastard he could easily have proved the fact, far more easily in 1727 than later in 1743. But he acted as we have seen—first he kidnapped and exiled the claimant, and then tried to have him hanged for a crime of which he was innocent. These circumstances were reckoned strong presumptions that the earl knew the claimant's pretensions to be valid. But the earl was so abnormally foolish as well as vicious that he might commit any criminal absurdity, and may have acted as he did, even though he well knew, and in 1728 (the date of the kidnapping) could easily have proved, that the claimant was illegitimate. He was the kind of man who would think, "To get proof is laborious; let me send the boy to America." In 1742 he could think, "The man is a nuisance; let us have him hanged if we can." Thus this patrician's conduct affords no presumption that he knew the claimant to be legitimate, as the judges themselves supposed that it did, in the trial of 1743.

In any case Lord Anglesea's agent, Giffard, turned against him, we shall see, in the trial of 1743, and in other cases witnesses changed sides with bewildering versatility, if we may believe Smollett in a point where he can scarcely be fabling.

Mr. Mackercher now "openly espoused the cause," says Smollett, of the claimant, and with two other "gentlemen" and the claimant visited Ireland and collected evidence, true or false. Finally the trial was held, as already stated, from 11th to 25th November, 1743, and a verdict, in which the judges obviously concurred, was given for the claimant, while to the defendant was allowed a writ of error.

This trial of 1743 occupies columns 1140-1454 in *State Trials*, vol. xvii. It is followed in vol. xviii. by columns 1-196, containing the trial for perjury (1745) of Mary Heath, the maid of Lady Altham. Mary in 1743 swore that Lady Altham had no child and no miscarriage between the years 1713 and her death in 1739. Mary Heath in 1745 was *acquitted of perjury*, and the evidence of this trial of hers must be compared with

that given in the trial of 1743. If Mary were not perjured in 1743, then the verdict for the claimant in that year was erroneous. Smollett omits mention of Mary's trial and acquittal!

Already, on 3rd August, 1744, at Athy, in Kildare, Lord Anglesea and others had been convicted of an assault on the claimant, and on Daniel Mackercher, Esq., and Hugh Kennedy, Esq., and William Goostry, gent., at the Curragh Races on 16th September, 1743.

VII.

The Affair at the Curragh.

Before discussing in detail the long trial of 1743 we must glance at the report of the trial (3rd August, at Athy in Kildare, 1744) of Richard Earl of Anglesea for an assault on the claimant, Mr. Mackercher, Hugh Kennedy, and William Goostry, committed at the Curragh in September, 1743. The affair throws light on the characters of all concerned. The judges were Richard Mounteney, second Baron of Exchequer (who also sat in November, 1743, in the great trial), and the Attorney-General. Mr. Harward, the claimant's counsel, began by alleging that the assailants made a concerted effort "to pursue the prosecutor, Mr. Annesley, to death." However, the troubles on the Curragh began on 14th September, when Lord Anglesea, among a crowd of gentlemen, spoke insults against Mr. Mackercher, as "a rogue, scoundrel, and villain" in second-hand finery. Mr. Mackercher took no notice. Several times on the last day of the races he and his friends were driven at by Lord Anglesea's coachman in a coach and six. The coachman kept shouting at the claimant as "that shoeboy." Mr. Mackercher then sought out Lord Anglesea, and found him among many gentlemen at the winning post. Mr. Mackercher begged his lordship to speak with him aside. He answered, "This is no time or place; you see I have no pistols before me" (whereas Mr. Mackercher and several of his company and servants had pistols in their holsters). Mr. Mackercher replied, "For what I have to say to you [illegible]dship every time and place is proper." He then asked if the coachman had insulted his friend by Lord Anglesea's orders or approbation. If not, would

Introduction.

Lord Anglesea, as the affront was public, publicly strip the coachman of his livery and turn him off the course? Lord Anglesea retorted, with an oath, that the friend, the claimant, was no gentleman, but a shoeboy, a blackguard, and a thief.

A witness said that Mr. Mackercher spoke in a very low, Lord Anglesea in a very loud, voice. Some one cried, "What, will you turn off your servant for that scoundrel"; and Lord Anglesea, taking courage, swore that he would not, and bellowed insults at Mr. Mackercher.

The hero answered, "My lord, you lie, and you durst not single yourself out and tell me so." The earl's led captain, Mr. Jans, and others cried, "My lord, you shan't go fight such a scoundrel; here are abundance of people to go out with him." At this point Mr. Francis Annesley of Ballysax struck Mr. Mackercher with the butt of his whip; Mr. Mackercher replied with the lash of his own, and Lord Anglesea, rising in his stirrups, addressed the crowd, fulminating against the claimant as a bastard of Juggy Landy and a shoeblack. Seeing the mob very hostile, and fearing for the claimant's safety, Mr. Mackercher advised Goostry and Kennedy to retire, and went to look for the claimant. At this moment, by order of Lord Anglesea, some one struck Goostry, while Mr. Mackercher found the claimant and led him aside. Presently one of his servants and a gentleman or two, strangers, came up, saying, "For God's sake, get away; there is a design to murder you all"—"to murder Mr. Annesley and you." The pair then cantered off, and saw that people were following them. The claimant had the better horse, and rode as hard as he could. When Mr. Mackercher rejoined the claimant he was lying speechless in a lane leading to Newbridge (where they lodged), with nine or ten people round him. Mr. Mackercher rode to Newbridge and procured a coach, in which he carried away his inanimate friend, who, in fact, had fallen from his horse.

This was Mr. Mackercher's evidence as to his and Mr. Annesley's share in the battle of the Curragh. He had more to state as to what occurred on the following day. Mr. Springer, in cross-examination, brought out the fact that the Mackercher party rode armed, and thought they had good reason to do so. Mr. Springer tried to show that Mr. Mackercher had no right to demand satisfaction from Lord Anglesea. Mr. Mackercher

did not deny that he hoped to make Lord Anglesea go on the sod with him—a very natural desire. He did not strike Lord Anglesea; he could not swear as to how he held his whip. He mentioned Sir Kildare Borrowes and Mr. Warner among those who pursued the claimant. Mr. Hugh Kennedy corroborated Mr. Mackercher up to the moment when Lord Anglesea stunned the witness with a blow from the handle of his whip. The mob then hustled the witness, and Lord Anglesea beat him till the people cried "Shame!" He then rode off, and found Mr. Mackercher with the still unconscious claimant. John Kirway heard Lord Anglesea tell some men to follow the claimant and tear him limb from limb. Mr. Archbold saw Jans and Anglesea beating Kennedy, and he remonstrated with Jans, who advised Anglesea to desist. Archbold then counselled Kennedy to leave the course, "for you'll be murdered if you stay here." Kennedy said that he would not desert his friends; the mob cried that the claimant had gone; Lord Anglesea cried, "Follow the son of a ——, and knock his brains out." Archbold rode to Annesley, whom he found insensible in a ditch; some gentlemen "were for striking him," but Archbold said that he believed the man was dead already, and supported him till a surgeon was brought. He named three gentlemen of the county as having pursued; he was of the county himself.

Mr. William Hacket, hearing a cry that "the young earl was killed," rode in the right direction and passed Mackercher, whose horse was slow. Mackercher, as he said in his own examination, asked Mr. Hacket to "keep close to Mr. Annesley, or he will be murdered." Hacket rode on, and, when he found Annesley senseless, vainly attempted to bleed him. Archbold was not cross-examined on this part of his evidence.

Goostry's evidence was that he struck Francis Annesley, who had stricken Mackercher; Francis Annesley stunned him with a blow, and others beat him.

We need not follow the evidence of Angus Byrne, a servant whose wages Lord Anglesea would not pay, for Angus was prejudiced, and he had, confessedly, been drinking all day. He declared that early next morning he was given a gun by Lacy, one of his lordship's men, and told to use it as Lacy might order. It is true that next day, when a summons for assault was served for Lord Anglesea on Mackercher's party,

this man Byrne did level a gun charged with large swan-shot at the claimant.

There was an instructive witness, Neile O'Neile, who swore that Mr. Mackercher struck Lord Anglesea first. This witness, when Mackercher first went to make inquiries in Ireland, came with all the evidence he could hope for, but proved to be such a rogue that he was discarded, and now came to swear against Mackercher. He was indicted for perjury. He was a surgeon. Not a few witnesses were of this character, and, when Mackercher produced such persons in the great trial, they materially injured his case. Englishmen and Scots, strangers seeking information in Erin, are apt not to understand the humours of her children. This fact may account for an affidavit made by Mr. Mackercher in a later case, when the judge spoke severely of the Scot, but presently added that Mr. Mackercher "might have been misinformed."

One is interested in Mr. Mackercher. He was not a bully and a coward, as he showed in his little dialogue with that cowardly bully, Lord Anglesea, on the Curragh. Perhaps Smollett did not wholly misread the character of his friend and fellow-countryman, "the melting Scot." He had the famous *perfervidum ingenium;* one is not certain by any means that Mr. Mackercher was merely a speculator in the claimant's chances. But his foot in an Irish affair was off his native heath, and set on the green sod of the isle of mystery and glamour.

This son of Farquhar is perhaps the most interesting person in the whole affair, and we perceive with some gratitude that he certainly gave Lord Anglesea the lie, and that Lord Anglesea dared not take up the gauntlet.

Lord Anglesea's led captain, Cavanagh, the dancing master, is the witness who said that, in the scene on the Curragh, "Mr. Mackercher spoke very low, but Lord Anglesea spoke very loud." The same witness said that Mr. Mackercher, when Lord Anglesea refused, with oaths and abuse, to give satisfaction, held up his whip in a threatening manner. Perhaps he did. This compromising retainer said that Lord Anglesea told Mr. Mackercher "he would go with him" (go out with him), "*but I do not think he would have gone.*" "I did not believe my lord would go out to fight;" this Mr. Cavanagh said twice. How can we explain his candid contempt of his noble patron?

EDIT

Daniel Tynan was at once turned off the table by Lord Anglesea's own counsel when he suddenly expressed a desire to tell all that he knew about Paul Keating. We have met Mr. Paul Keating in a dubious part, in the trial about the shooting case at Staines; and he appears not less ambiguously in the case of the trial of Mary Heath for perjury. Apparently the defendant had no desire to inform the world about Mr. Keating.

The jury found Lord Anglesea and Mr. Jans guilty of the assault on Mr. Mackercher. As to the claimant, his counsel argued that his dangerous fall resulted from his attempt to turn his horse in a narrow lane, that he might face his pursuers like a man. Smollett gives the same account in *Peregrine Pickle*. Now, Lord Anglesea stirred up the pursuit—is he not guilty of assault on the claimant? As no pursuer struck the claimant, the Court, while severely censuring Lord Anglesea, could not say that he was actually guilty of assault on the claimant. Finally, the Court severely reprimanded Lord Anglesea. "A number of people, by your lordship's example, might be led to take part on one side or the other; and, if they had done so, it is to be feared that there might have been more fatal consequences." His lordship was fined £30; Francis Annesley, £20; Jans, £10; and, for hitting Gosetry, Lord Anglesea was fined 6d.

VIII.

The Two Views of the Case.

When the contending parties had mustered their witnesses and engaged their counsel the two aspects of the case stood out thus—The claimant alleged that Lord Altham and his wife, after a long separation, were reconciled about November, 1713, and for some time lived together in the house of Captain Briscoe in Dublin. Thence they moved to the lodgings of a Mrs. Vice in Dublin, and on Christmas Eve, 1713, went together to Lord Altham's place, Dunmaine House, within 4 miles of New Ross, in County Wexford. There, in early spring, 1714, Lady Altham had a miscarriage. In the summer of 1714, say, early June, she had another mishap at Mrs. Vice's lodgings. She presently again became pregnant, and in November, 1714,

was some three months advanced in that way; so continued till January, 1715, and in April, 1715, gave birth to the claimant, who, after a month, was nursed by an ex-kitchenmaid, Joan Landy, in a cabin distant half a mile from Dunmaine House. The child was often at the house, and often visited by Lady Altham at Joan Landy's cabin. A dry nurse, Joan Laffan, was found for him in autumn, 1715; he was brought permanently to Dunmaine House, remained there after Lady Altham left it for ever in February, 1716, and accompanied Lord Altham to various places, till he was dropped by his father, became a street boy, and (April, 1728) was transported to America by his uncle, the defendant.

For the defendant it was argued that Lady Altham, in 1713-1716, never showed the slightest signs of approaching maternity, never had a miscarriage, never bore a child; and that from 1713 to February, 1716, no child was living in Dunmaine House. In 1714 a kitchenmaid, Joan Landy, had a bastard, attributed by some thinkers to Lord Altham; and some time after his lordship's separation from his wife in February, 1716, this child was brought to live in Dunmaine House. This bastard child was the claimant. He was taken up by Lord Altham in 1716, was fairly well treated till 1724, became odious by reason of his larcenies, was thrown upon the town of Dublin, and in 1728 shipped himself to America, whence he had now returned, a brazen and impenitent impostor.

IX.

The Great Trial.

Two months after the battle of the Curragh the first of the test matches began between the claimant and his uncle before three Barons of the Exchequer in the King's Courts, Dublin. Formally the suit was a trial in ejectment between Campbell Craig (one of Mr. Mackercher's Scots), as a tenant of James Annesley, the claimant, in certain lands in Meath, and the Earl of Anglesea, who had duly caused the claimant's tenant to be ejected. Of course, if the claimant, the lessor, could prove himself to be the only son and heir of the late Arthur Lord Altham, then the Earl of Anglesea was not the owner of

the lands whence he had ejected Craig, or of any other part of the English or Irish heritage of the late Arthur Lord Altham, and he lost the title of earl.

Doubtless the hall in which the trial was held contained plenty of Irish peers, with their beautiful wives and daughters, and perhaps the claimant, as Charles Reade avers, wore "a rich suit of purple velvet and a gold sword hilt." That was Mackercher's affair; perhaps the spectators would have been more moved if the claimant had appeared in the simple costume of a distressed mariner. But, as he is said to have been a good-looking lad with fair hair (certainly not inherited from the equally dark Lord and Lady Altham), no doubt he was so attired as to look the noble. Probably, as at the Curragh, the gentry and their women were at first of Lord Anglesea's party; he was noble, while the claimant, on the spindle side, might be the son of the festive but low-born Juggy Landy, a kitchenmaid, *folle de son corps*. But society sided entirely with the claimant at the close of the trial. If Juggy or Joan Landy was present, and if the claimant were her son, her heart was doubtless with him, but her tongue was mute; she was on the list of the claimant's witnesses, *but neither party dared to "put her on the table"*—one of the most curious features of the case.

If Joan Landy were the actual mother of the claimant, maternal affection and hope of his gratitude urged her to swear that he was *not*. So should she see her boy a belted earl. But if she were *not* the mother, she had manifestly been "got at" by the Anglesea faction, so that the claimant's counsel dared not call her as a witness; while defendant's counsel were afraid that if *they* called her she would break down under cross-examination!

To this remarkable set of circumstances the three judges before whom the case was pleaded made no reference when addressing the jury.

The defendant had secured Mr. Prime Serjeant Malone, the leader of the bar, a very clever man with a rich vein of banter, but capable of amazing blunders. With him were the Solicitor-General and fifteen of the bar, while for the plaintiff Serjeant Marshall, also an able man, less loquacious but more accurate than Serjeant Malone, headed a tail of thirteen counsel. Ser-

jeant Marshall led off with the claimant's view of the whole case, and Lord Chief Baron Bowes advised the jury to take notes; his lordship took no notes, yet his memory was but once, if once, at fault, and if it was, his assessors, Baron Mountenay and Baron Dawson, corrected him.

X.

The Claimant's Witnesses.

Then the witnesses began to appear; first some were called to prove that Lady Altham *might* be a mother, because in 1714 she had a miscarriage at Dunmaine. The most important witness here, Mrs. Cole, *née* Briscoe, said that, "about Christmas," 1713, the Althams were reconciled, and stayed at her father's house in Dublin, that she saw them in bed, that they went to lodge with a Mrs. Vice, and thence to Dunmaine about Christmas, and that she and her mother visited Dunmaine "about the spring," 1714. Lady Altham was later alarmed by Lord Altham throwing some saucers adorned with facetiously improper designs into the chimney "just by my lady who was seated at the upper end of the table." In the night Mary Heath awoke Mrs. Briscoe with the news that Lady Altham was very ill, and next day the witness saw the results of a miscarriage in a closet adjoining Lady Altham's bedroom. Three or four neighbours were present at the dinner of the broken saucers; she could not remember their names, very naturally. Later, in 1745, at the trial of Mary Heath for perjury, Lord Chief Justice Marlay made much of this lapse of memory, and of Mrs. Cole's different views as to where she sat at table. In 1743 she sat at Lady Altham's *left* hand, Lady Altham facing her lord. In 1745 she was not sure that Lord Altham sat next her on the other side (which could not be), and that she herself sat at Lady Altham's *right* side. There is nothing in such minute discrepancies in her mental pictures of a remote event. She gave, in 1745, her reasons for believing that she, not her mother, sat at Lady Altham's right. Her mother's eyes were weak, and if she sat at the right she had the light in her eyes. Lord Altham emptied the saucers before he threw them. Lord Chief Justice Marlay represented her as

saying, "he emptied them *carefully*." His object was to prov that in Lord Altham's calm, deliberate action, as he threw cool saucer between the heads of the two ladies, each of whom kept twisting her head away in a separate direction, there was nothing to alarm and excite Lady Altham. Further, said his lordship, in 1745, "Mrs. Cole admits to having said, on the former trial, that her mother told her it was an abortion; but now she says that her mother and she went into the closet together." Where is the discrepancy?

Under cross-examination, in 1743, Mrs. Cole said that she was uncertain of her age, a fly-leaf in the family Bible being lost; she thought she was about forty-five. Her error as to her age is examined later. She denied that she had been promised a lease as a reward for her evidence. She was asked what was the butler's name at Dunmaine in the spring of 1714; she said he was called Rolph; and it will be remarked that all but one of the servants called for the claimant had no memory, or vague memory, of Rolph, who was a thorn in the side of the wandering heir. (The servant who did remember him did not belong to the Dunmaine family.)

Alice Bates, formerly a servant of a Mrs. Vice, to whose lodgings, said Mrs. Cole, the Althams went from her father's house, and thence to Dunmaine, at Christmas, 1713, swore that, in November, 1714, the Althams were at Mrs. Vice's, that Lady Altham was then with child, and that Lord Altham said to her, the witness, "By God, Ally, Moll's with child," a speech much in his lordship's taste and style, "Moll" being his wife. This evidence for November, 1714, was firmly corroborated in the later trial (1745) by the highest possible authority, that of two witnesses of repute, not examined in 1743. On the theory of the claimant, he was the child of whom Lady Altham was pregnant in November, 1714.

Next Catherine M'Cormick, of old a servant of Mrs. Vice, corroborated Mrs. Cole on the point that the Althams, just before Christmas, 1713, lodged with Mrs. Vice, and thence went to Dunmaine. This point of the lodging with Mrs. Vice during part of December, 1713, was only important because Mary Heath, Lady Altham's maid from 1713 to 1729, denied it, as did, in 1745, another important witness not heard in 1743.

Introduction.

Catherine M'Cormick also swore that the Althams lodged again at Mrs. Vice's in the end of May or beginning of June, 1714; that Lady Altham later, after a brawl of his lordship's making, miscarried (the second miscarriage), but was once more with child some time in the autumn of 1714, again at Mrs. Vice's.

So far we have Lady Altham's miscarriage 1 about April, 1714, at Dunmaine; miscarriage 2, at Mrs. Vice's about July, 1714; appearance of Lady Altham's being with child at Mrs. Vice's, November, 1714.

Here, by way of anticipation, it must be said that Lady Altham's English maid, Mary Heath, both at the trial of 1743 and in her own trial for perjury in 1745, contradicted Mrs. Cole, Alice Bates, and Catherine M'Cormick on all essential points. She declared (and being Lady Altham's maid she ought to know) that the lady could not have "a big belly" unknown to her; "I never had reason to believe that she was with child all the time I lived with her" (1713-1729).

Now, there was produced at Mary Heath's trial for perjury in 1745 the highest contemporary scientific evidence that Lady Altham, about the end of November and in December, 1714, had a "big belly," a very big one, and that, in the opinion of Samuel Jemmat, M.D., an English gentleman, President of the Irish College of Physicians, she then "was with child," a belief to which, in 1745, he was still wedded. He gave his medical reasons, but, on being asked, honestly said that positive certainty was impossible. He was corroborated by Hellena Moncrieffe, a midwife (not called in 1743). She was in 1745 the mother of twenty-one children; "by my judgment Lady Altham was as much with child as ever I was," she said.[1]

Now, all this seems to be highly important evidence. Dr. Jemmat was, as the tone of his deposition proves, an English gentleman and a man of science. As far as his memory served him, it was late in November, 1714, when Lord Altham called him in to see Lady Altham at Mrs. Vice's house. He intended to adopt a given treatment when certain symptoms induced him to ask Lady Altham "if she was with child?" She replied that "she had all the reason in the world to

[1] *State Trials*, xviii. 66-74.

believe that she had been so for three months at least." That takes us back to the beginning of September, and, according to the vague memories of the many witnesses who declared that she bore a child in 1715, the month of the event was April or early May. All that is in the customary nature of things. Dr. Jemmat, one of the very few adequate and authentic witnesses, was corroborated by Mrs. Moncrieffe, the mother of twenty-one children, whose evidence was quite clear, and, so to say, scientific, and transparently honest.

With two such witnesses we cannot doubt that the evidence of Mary Heath as to Lady Altham's having *never* shown any hope of maternity, was false. She cannot have but known that, late in 1714, Lady Altham's condition gave her ladyship good hope of maternity, whether the hope was fallacious or not. Yet Mary Heath, in 1745, was acquitted—a miscarriage of justice—of perjuring herself. In 1743 Mary remembered the breaking of the saucers at Dunmaine in 1714, but denied that Lady Altham had, in consequence, any illness. She also denied that, in December, 1713, the Althams left Captain Briscoe's house for Mrs. Vice's lodgings, as Mrs. Cole said, but since, at a rather later date, they did occupy these lodgings twice or thrice, Mrs. Cole's memory may well have been confused. In the trial of 1743 Mrs. Cole and Mary Heath were confronted; each stood by her story, Mrs. Cole calmly, Mary Heath with excitement.[1] But that is a mere question of manners, educated or uneducated.

As regards Mrs. Cole a very singular fact came out at the trial of Mary Heath in 1745. At the trial of 1743 Mrs. Cole had stated her own age in that year as about forty-five, and her age in 1714 as about thirteen, fourteen, or fifteen. She did not pretend to be certain within two or three years. It was argued *against* her that so young a girl would not be shown or understand about the results of a *fausse couche*, and *for* her that girls of thirteen are specially curious in such matters. In the earlier trial Alice Bates, who had been a servant of Mrs. Vice's in 1713-1714, was asked how old Mrs Cole had been in that year, and if she were then marriageable? Alice replied, "she was marriageable and as big as she is

[1] See page 253.

now," so she can hardly have been a child of thirteen, though such cases do occur. No certificate of birth was asked for in 1743, a singular oversight. In 1745 Mrs. Cole had provided herself with an extract from the registry of the Church of St. Nicholas Within, which proved that in 1714 she was aged twenty-two.

To what extent this invalidates her truthfulness as to matters of fact, or how far, on the other hand, it explains her being allowed to see what she did see, must be matter of opinion. In 1743, Lord Anglesea's counsel, Serjeant Malone, argued that Mary Heath's evidence, as she was twenty-five in 1714, was better than that of Mrs. Cole, who was so very young. But that contention, at least, was nullified when Mrs. Cole was proved to be only three years younger than Mary Heath.[1]

Mrs. Cole also, in 1745, said that she sat next Lord Altham when he threw the saucers about at Dunmaine. In 1743 she said that she sat next Lady Altham. As the saucers were certainly thrown in her presence, as Mary Heath admitted, such variations of memory, after so great a lapse of time, are unimportant. As to the miscarriage, either Mrs. Cole or Mary Heath was perjured. Had Mrs. Cole been a child in 1714, in the course of some thirty years her memory might have become hallucinated. But this is hardly possible, as in 1714 she was aged twenty-two. In 1745 Mrs. Cole was asked whether or not she had told a Mr. Whyte that she could be a very material witness for Lord Anglesea if her lease were renewed, but that if it were not she would not tell him what she knew. She replied that she had said to Mr. Whyte, "if the proving of a miscarriage can prove of any service to my Lord, I can prove the miscarriage."[2] Mr. Whyte told her that the miscarriage was immaterial, "We do not go upon that, for we do not suppose my lady a barren woman." Mr. Whyte was not called on for his testimony.

In fact the miscarriage *was* immaterial; and Mrs. Cole had spoken of it to Mr. Whyte before the point which was really material had arisen, namely, the statement of Mary Heath that Lady Altham never had a miscarriage, nor even showed any symptoms of approaching maternity. But Dr. Jemmat

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1 See page 259.

2 *State Trials*, xviii. 63-65.

proved in 1745 that on this point Mary Heath was not veracious, that Lady Altham did expect a child, and we cannot hesitate between Mary's evidence and that of the President of the College of Physicians.

In summing up to the jury, in the trial of Mary Heath, Mr. Justice Blennerhasset dwelt on the discrepancies in Mrs. Cole's evidence as to her age, where she sat at dinner during the affair of the saucers, and so on. He also said that neither Dr. Jemmat nor Mrs. Moncrieffe proved the actual pregnancy of Lady Altham in November-January, 1714-1715. But he did not call the attention of the jury to the fact that Mary Heath had denied the *appearance* of any signs of approaching motherhood in Lady Altham, while the President of the Royal College of Physicians and Mrs. Moncrieffe swore that the signs were so significant as (if Lady Altham were not really pregnant) to deceive even the very elect.

We thus reach, perhaps, a fixed point: Mary Heath was not a veracious witness, and she was the most material witness against the claimant.

XI.

Major Fitzgerald.

The next witness for the claimant gave affirmative evidence to his legitimate birth, which cannot be explained away by any hypothesis that fancy can suggest. We are here approaching the very centre of the labyrinth. The reader who would understand must give his best attention, and forgive any defects of lucidity in the presentation of testimony so tangled and derived from so many sources at so many different dates.

Major Richard Fitzgerald of Prospect Hall, recently returned in November, 1743, from active service on the Rhine, swore that one day in 1715 he happened to be at Ross on private business. He was sure the month was September. He was long acquainted with Lord and Lady Altham, and, meeting Lord Altham at Ross, was invited to ride the four miles to Dunmaine and taste "the groaning drink," or caudle, as her ladyship was brought to bed. The major answered that he had a dinner engagement, and that her ladyship's condition was reason good why he should not then visit Dunmaine. "I

desired my lord to let me know the next morning how my lady was, and what God sent, and I would go to dine with him. He did so, and that his lady was brought to bed of a son; and I went there about one o'clock, and rode to Dunmaine." After dinner his lordship swore that the major must see his child; "and I kissed the child, and gave the nurse half a guinea . . . some of the company drank him as heir apparent to the Lord Anglesea." Among the company he only remembered Captain Robert Phaire, a name well known under the Restoration. Asked, "Do you know who was the nurse that brought down the child for you to see?" he replied, "I know, sir, that the very woman I gave the half guinea to is here to-day, and I never saw her from that time to this." "How came you to know her again, then?" "I took particular notice of her, sir, because she was very handsome, if you will have the truth of it."

Now here is what seems to be inexpugnable evidence of the birth of a child to Lord and Lady Altham in 1715. But there was a flaw. Major Fitzgerald knew that his visit to Dunmaine was at one of the two half-yearly terms when rents were paid. But whereas the claimant's counsel placed the term in April, 1715, Major Fitzgerald was firm in the belief that harvest work was going on as he rode homewards. Consequently, counsel for the defendant accepted the major's date (September, 1715), which, of course, contradicted the April date of the claimant's other witnesses, and nullified his case.

Then Prime Serjeant Malone, for the defendant, adopted an astonishing and impossible hypothesis to explain all that befell the major at Ross and at Dunmaine; for nobody denied that his tale was true, that the facts to which he testified actually occurred. The serjeant paid the most florid compliments to the civil and military character of the major, "brought from the army on the Rhine, whence he comes crowned with laurels," and *here* the serjeant makes no objection to the major's September date of the visit to Dunmaine, but suggests that he was the victim of a practical joke by Lord Altham, who was glorying in his fatherhood of a bastard son. Now, no bastard child of Lord Altham is ever hinted at in the evidence except Joan Landy's babe of March or April, 1714. Yet, according to defendant's counsel, "Joan had just lain in" (to Lord

Altham) when (in September, 1715, as the serjeant insisted on the major's date) that gentleman was invited to see Lord Altham's heir—really to see a bastard passed off as the heir, for a joke.

Joan lay in a year before April, 1715, and more than a year before September, 1715. Her child could not be passed off as a babe of one day old!

However, said Serjeant Malone, "Joan Landy had just lain in, Lord Altham palms the young byblow upon him for his heir, and my lord was ready to burst with the thoughts of having bit them all with the young kid."

Thus the Major's evidence to the facts of his own experience at Dunmaine in 1715 is accepted by the defence. Their attempt to explain the facts away by the practical joke of exhibiting a child of twelve or eighteen months as a new born babe is ridiculous. We must suppose that the major's memory represented the April as the September half-yearly term, and this is certainly the explanation, for something extraordinary is to be added. After tracing the history of these trials, we shall produce sworn evidence of a nature not to be doubted, to prove that in mid-April, 1715, Lord Altham publicly announced the birth of his son by Lady Altham, and privately corroborated it in conversation with the High Sheriff of Kilkenny county. The evidence is that of an affidavit by the High Sheriff himself, and, of course, it corroborates the *facts* and corrects the erroneous *date* in the testimony of Major Fitzgerald.

Another point in support of Major Fitzgerald must be borne in mind. He recognised in Court, in 1743, the very handsome nurse of Lord Altham's child to whom he had given a half guinea in 1715. The chief counsel for the claimant, Serjeant Marshall, identified the handsome nurse with a witness for the claimant, Mary Doyle—"My lords, this woman has been in Court, and has certainly the remains of a fine countenance."[1] She said that the major stayed over night at Dunmaine, in which she was mistaken. But certainly the major noticed her beauty in 1715, and recognised her in 1743.

Now, it was an essential part of the defendant's case that in 1715 Mary Doyle was not in Dunmaine, his chief witness,

[1] *The Trial at Bar*, p. 353.

Lady Altham's maid, Mary Heath, being asked, "Do you remember one Mary Doyle in the family?" "No; Betty Doyle I did."[1]

XII.

Other Witnesses.

There were few witnesses like Major Fitzgerald for the claimant. Not all of them need be mentioned here, but John Turner seems a notable witness. He said, in his first examination,[2] that he was seneschal to Lord Anglesea; was married on 29th December, 1714; visited Dunmaine with his wife a month later; remained in Lent, 1715; and saw that Lady Altham was about to be a mother. A year and a half later (which is impossible, for Lord Altham by that date was separated from her lord) he saw Lady Altham at Dunmaine with her boy, aged about eighteen months; afterwards he saw the child at Ross when Lady Altham lodged there with Captain Butler (1716). He saw the boy at Kinnea (1718) with Lord Altham; the boy was dressed "as the son of a nobleman." In Dublin, in 1722, Lord Altham told the witness that "you were seneschal to Earl Arthur and Earl John, and you may be seneschal to the child." Turner saw the boy two or three years later, so altered and neglected that he could not recognise him. Later he asked the defendant where the boy was. The defendant answered, "Dead!"

Turner was re-examined at the close of the trial. In *State Trials* (xvii. 1350) he now gives the date of his marriage as 29th September, 1714. This is an error. He said, "December 29, 1714," as before.[3] Two important points in Turner's evidence are (1) he saw Lord Altham with a boy at Carrickduff, about 1720 or 1721, and Lord Altham said, "You were seneschal to Earl John and Earl Arthur, and I'm sure you will outlive me, and therefore may be seneschal to this boy here." Next (2), on re-examination he swore that, to the Wexford Assizes (18th-22nd April, 1715) Lord Altham went in a coach, and that he rode. Lord Altham had no ladies

[1] See page 209.
[2] See page 92.
[3] See page 251.

with him. Witness saw Lady Altham at Dunmaine, after her lord left. On this crucial point of Lady Altham's presence at or absence from these Wexford Assizes the cross-swearing was furious. If she was there on 16th-22nd April, 1715, she could not also be lying-in at home at the same date.

Turner also swore that about 1717 or 1718 Lord Altham asked him to appeal to the Earl of Anglesea for money to help him to maintain his son. Turner did appeal to Earl Arthur, who was very angry, but finally gave £50. It was about 1735-1740 that the defendant told Turner that the boy was dead.

Prime Serjeant Malone, when addressing the jury, tried to prove that Turner was much out in dates, and read them from his notes. The notes must have been erroneous. The serjeant also said that seneschals were apt to be avaricious and oppressive men, which had no connection with the matter. Turner, so long a retainer of the Angleseas, does not make the impression of a perjured witness.

The evidence of Dennis Redmonds was that of a poor stableman. His story was that about thirty years before 1742 he was in service at Dunmaine; that Lady Altham's condition was the talk of the servants; that he himself was sent to bring a midwife, a Mrs. Shiels, from the town of Ross; that after three weeks the child was christened James by the Rev. Mr. Lloyd, Lord Altham's chaplain; that the godfathers were Mr. Cliffe and Mr. Colclough, and the godmother Mrs. Pigot; that the nurse was Joan Landy, "because she had the best milk"; that she nursed the child in a cottage, where her father and mother lived, a quarter of a mile distant from Dunmaine House, and that Lady Altham had a "coach road" made through that quarter of a mile. The child was brought to the house in about a year, and remained there after Lady Altham left her husband, who had treated her in a manner almost incredibly infamous in the affair (to which we shall come) of Mr. Thomas Palliser. Under cross-examination he dated the birth "about May" (1715), he was not at the christening, believes the midwife is dead (as were the three godparents).

His account of Joan Landy was that she had a child, whether by a sailor, or by Lord Altham, or by some other man, many months before Lady Altham bore the claimant. There were

discrepancies as to the time, and the witness was confessedly "a poor and inferior person."

There was much dispute about Joan Landy's cottage—by the defendant's witnesses described as containing but one room without furniture, and with no road to the place; by the claimant's witnesses as improved for the occasion, whitewashed, and provided with a new road.

On the whole, it seems proved that there was a road by which Lady Altham might visit her child. Fosterage, outside of the house, was still not extinct in Ireland, the reason alleged being that the rich living at great houses was injurious to the wet nurse.

Mary Doyle, of whom we have already heard, said that she was in service at Dunmaine three months before the child's birth; was present at Lady Altham's delivery, as was Mrs. Butler; and, as to the midwife, the "gossips," and the nurse, she corroborated Redmonds. She believed that Major Fitzgerald stayed for some time at Dunmaine; in fact, he did not pass a night there. Serjeant Malone had, we saw, practically admitted, nay, had insisted, that Mary Doyle was at Dunmaine when Fitzgerald called there, and that she was an actress in the great practical joke. Asked who was the butler at the time of the birth, Mary said, "Charles Meagher." Now, Thomas Rolph, called for the defence, swore that *he* was the butler from the end of 1713 to the autumn of 1715. (Mrs. Cole remembered him as butler in 1714.) He did not remember Mary Doyle among the servants (though she was), and Mary Doyle spoke of Meagher, not of Rolph, as the butler. We return to Rolph later.

Eleanor Murphy, another maid, corroborated Mary Doyle on most points. But each woman said that the other was in service at Dunmaine House before herself, and Eleanor Murphy, by her evidence, was in two places at once; on the whole, intentionally or through confusion of mind, she appears to have perjured herself in places.

The strength of Mary Doyle's evidence was not fully apparent at the trial. She swore that among those present at the delivery of Lady Altham was Mrs. Butler, wife of Captain Butler, a very great friend of her ladyship, and a near neighbour. In 1746 this fact was substantiated by an affidavit of Mr.

Malbrank-White, a nephew of Mrs. Butler. His evidence is later given in full.

Serjeant Malone remarked on the dates in the evidence of Mary and Eleanor, that "liars ought to have good memories," but a much "heckled," uneducated woman may be confused in cross-examination as to a period of two or three months after an interval of nearly thirty years. The Lord Chief Baron, when addressing the jury, remarked that there were such discrepancies as to time and place in the evidence of both sides, and it was not in nature that there should not be. It is remarkable that no dated letters and only one diary were produced in the whole course of the trial. Without diaries and letters the best educated witnesses could not swear with accuracy to their movements in a given three months thirty years ago.

The evidence of a Mrs. Deborah Annesley, whose husband (dead at the time) had been akin to Lord Altham, dated from 1717 to 1718, when Altham, separated from his wife and accompanied by a mistress, was residing at Kinnea, in County Kildare. Mrs. Annesley naturally did not visit Lord Altham; but she and her brother had often drunk to the health of Lord Altham's son James, whom they both believed to be legitimate. Her brother would not have toasted a bastard; he was a grave and sober man, Mrs. Annesley declared. There really was, in 1715-1718, a belief that Lord Altham had a son and heir.

If Lord Altham, in a humorous spirit, played a practical joke on Major Fitzgerald, he also played a similar joke on Mr. Barnes, an alderman of Kilkenny. He "knew my lord very well indeed," and all that he knew of the matter was what my lord told him in an inn at Ross in the April or May of 1715. Mr. Barnes "had been in Dublin about affairs of the Duke of Ormond," who in a few weeks joined James VIII. and III. in France, to the advantage of neither king nor subject. Mr. Barnes and Lord Altham dined together, and Lord Altham had this remarkable expression, "Tom, I'll tell you good news, I have a son by Moll Sheffield." Mr. Barnes, thinking that Moll must be "a naughty pack," "shook his head and said, 'Who is Moll Sheffield?'" "Zounds, man, she is my wife," said Lord Altham. Mr. Barnes, remembering, was shocked by his own want of tact, and apologised, adding, "for the

Lord's sake, stay at home with your wife and discharge all other women." The month was April or May. Mr. Barnes still reckoned himself, in 1742, as the loyal servant of the Duke of Ormond, then a Jacobite exile at Avignon, and, I regret to say, still flirting, which deeply grieved that other good and loyal Jacobite, the Rev. George Kelly—"Parson Kelly." Death alone prevented the Duke from joining Prince Charles in 1745. Now I believe in Barnes's story; it bears the stamp of truth. He could not have invented it, with his own innocent and natural forgetfulness as to who "Moll Sheffield" was. Mr. Barnes was an honest and courageous man. He proclaimed his loyalty to the Duke of Ormond "to this day" in open Court, and all the world knew that the loyalty of His Grace did not attach itself to the Elector of Hanover!

Certainly in April-May, 1715, Lord Altham was boasting that he had a son by "Moll Sheffield," Lady Altham, his wife. To another witness he said, "My wife has a son who will make my rake of a brother's nose swell," that is, will disappoint his brother Richard, later the defendant. The evidence is that of the Earl of Mount Alexander (Hugh Montgomery); he could not date the occasion save by the fact that oysters were in, as they be in months with an "r" in their names. The scene of the conversation was an oyster house in Dublin.[1]

Certainly Lord Altham bragged freely about having a son by his wife, and Mr. Southwell Pigot was not allowed to give evidence that his mother had told him that (as many witnesses reported) she was godmother of the boy. Mr. Pigot could swear that there was an uncontradicted belief that Lady Altham had a boy born to Lord Altham. John Scott, a servant of Mr. Pigot, swore he was often sent by Mrs. Pigot with messages of inquiry as to Lady Altham's health after her child-bearing.

Much affirmative evidence was given by Joan Laffan, certainly an acute woman, who said that she had been a chambermaid at Dunmaine in 1715, saw the child treated as legitimate, and took care of him after the final separation of Lord and Lady Altham in 1716, and till Lord Altham went with the boy to Kinnea. Her testimony was vitiated, said Serjeant Malone, by discrepancies in dates.[2]

[1] See page 127.
[2] See page 268.

If Joan lied, she lied with circumstance. She remembered that sweet whey was made for the nurse's drink, "for my lady ordered that she should not eat greens, potatoes, or roots, for fear of injuring her milk." She remembered that the late Lord Donegall, playing with the child, "took out a handful of gold, and bade the child take his choice of a piece"—after the separation of Lord and Lady Altham (February, 1716). Of a Mrs. Giffard, a strong witness for the defence, Joan spoke with *hauteur*. "She was not so grand a woman, and I took no great notice of her." Joan was very positive as to having been present when Lord Altham trapped Mr. Tom Palliser in Lady Altham's bedroom, and had part of his ear cut off (February, 1716). Joan was present, "babe in arm," and told a most circumstantial story about the notice which the child took of Mr. Palliser's blood. She saw Lady Altham kiss the child in her coach before she drove away to Ross. All that Joan said was flatly contradicted by other witnesses,[1] especially by Mr. Palliser and Mary Heath.

Bartholomew Furlong, a dealer in corn and other produce, swore that he saw Lady Altham (whom he greatly admired) big with child, and attempted to obtain the place of wet nurse for his own wife, and that Lady Altham was willing, arranged terms, and gave him half a crown; but his own child was ill, and a Dr. Brown recommended that Mrs. Furlong should not be employed. This witness was not shaken in cross-examination. He saw the child with Lady Altham, at Dunmaine, later.

Out of due course was produced a belated witness, Thomas Higginson. Is he the H——n mentioned by Smollett as the person who introduced the claimant to Mr. Mackercher? He swore that from 1711 to 1716 he was receiver of the then Earl of Anglesea's rents in Wexford. On the Thursday before Easter, 1715, he went to Clonimes, meaning to go to Wexford Assizes, and on Tuesday after Easter day went to Dunmaine and met, among other people, the wife of John Weeden or Weedon, Lord Altham's coachman. He heard that Lord Altham was not at home, but saw my lady; she was about to be a mother, and gave him a glass of wine, in which he drank to her happy delivery. In Wexford, a day or two later,

[1] See pages 106, 107, 249, 250.

he met Lord Altham and paid him some rents from his tenants on the Nanny Water, in Meath, which his own son had collected, and which he received from his son on Wednesday in Easter Week at Enniscorthy. He went to Dunmaine merely to tell Lord Altham that his son had got the Nanny Water rents, and expected to be "a welcome messenger." Now, this witness seems valuable to the claimant; but in the trial of Mary Heath for perjury, in 1745, documents were produced, and the wife of John Weedon was produced, and Mr. Higginson's evidence was rendered of dubious quality. We examine the question under "The Trial of Mary Heath."

The apparent slur on Higginson's evidence was that the dates at which he received rents were written down by him beforehand, and consequently did not indicate the date on which he was at the place of payment. He swore that Lord Angleses was at New Ross in June or July, 1715, and that people told him Lord Altham had a son, and wished him like good fortune.

The kind of evidence produced for the claimant, as far as concerned the birth of a child to Lady Altham in 1715, may now be understood. There was more, and worse. The defendant had years in which to get up his case before the claimant arrived on the scene, and it was hinted that defendant's agents had planted on the claimant's agents certain witnesses who were intended to discredit them by bearing false testimony.

XIII.

The Claimant after February, 1716.

Lady Altham left her lord, never to return to him, on a Sunday in February, 1716. According to Joan Laffan, the claimant, then a small child of ten months, remained at Dunmaine under her charge. Meanwhile Lady Altham resided with Captain Butler, husband of her friend Mrs. Butler, near New Ross. Did she ever, while at New Ross, receive furtive visits from her child? After the trial, in 1746, Mrs. Butler's nephew, Mr. Malbrank-White, swore that she did. At the trial of 1743 the best witness to visits from the child was Edward Lutwich, in 1717 or 1718 a trooper in Napier's

Regiment, then quartered at New Ross. He was a shoemaker before he was a trooper, and, if he lied, lied with all the circumstance of De Foe in fiction. He said that Lady Altham, who wanted shoes and slippers of white damask, applied to him; that he said he must get "conveniences" through the carmen from Dublin; that she gave him the stuff; that before the tools came she sent for him and bade him make morocco shoes for a boy of three, who was with her, "the young lord," as Lutwich called him. When paying for the shoes she lamented that she could only see her child by stealth. Lutwich described minutely how he took the measure of the child's foot.

Under cross-examination his knowledge of the officers of his regiment was copious and minute, also of the topography of the house, that of one Wright, where Lady Altham then lived. In 1743 Lutwich, who had joined the Guards, had a pension and a small freehold in Surrey, and had voted at the last election. On hearing of the claimant in England, and that he was "a pretender and a bastard," Lutwich had exclaimed, "Upon my soul, I believe that, if ever *my* mother had a son, my Lady Altham had one, and that he was the son of my Lady Altham." Lutwich was quite unshaken under cross-examination. Moreover, he was not Irish, not amenable to Irish prejudice on one side or the other.

Lord Altham left Dunmaine in 1718 to try to raise money elsewhere. He never came back. Mr. Lambert let the place to another tenant, and Lord Altham went, with the boy, to live at Kinnea.

At Kinnea Mr. Lawrence Misset remembered the boy as a junior at a school where he himself was educated. He did not pretend to remember dates. The boy was well dressed, with a silver-laced hat. (The evidence of Mrs. Annesley about the drinking the boy's health in her family belongs to the Kinnea period; she lived near that town.)

Lord Altham and the boy later went to Carrickduff, in County Carlowe, his lordship being terribly impecunious, as, indeed, he was even in 1714. Here two Cavanaghs, Mr. Charles Byrne, and Dempsy, a schoolmaster, swore that every one treated the boy as legitimate, and that Lord Altham took him about paying visits. James Cavanagh swore that Lord Altham

said that one day the boy would be Earl of Anglesea. Dempsy swore to recognising the boy in the claimant. Mr. Charles Byrne used to receive Lord Altham and the boy, and vowed that he would not knowingly receive a bastard. He would not have recognised the claimant, "no more than the King of Morocco."

The next move was to Cross Lane, Dublin, and then to Frapper Lane, where Miss Gregory, his lordship's new mistress, has a spite against him, accusing him of dishonesty. He was sent to lodge out. Lady Altham herself was now in Dublin, and it was urged that she must have made efforts to see her child; but, really, she appears to have lost health and hope and energy. One witness had heard her say that if Lord Altham's servants brought the boy to her, they would lose their livelihood. Certainly *she* could not help them. The boy was very cruelly punished, was allowed to run wild, was a sort of errand boy to men at Trinity College, who were kind to him. Some thought him legitimate, some—a bastard. The child, it was sworn, asserted his legitimacy, but he could not know; if legitimate, he never saw his mother after 1718, if Lutwich truly said that he visited her then. He had been treated well, had a pony and a laced hat (according to the evidence for him), and a scarlet coat, and by 1724 he was a gangrel, turned out of the house where the wretched Altham herded with Miss Gregory and chairmen. There is no profit in asking if it is probable that Lord Altham would thus have used a legitimate son. He was quite besotted; he was under a mistress. Be the boy a bastard or not, he was infamously treated. One Farrell swore that he remonstrated with his lordship, who said that he was very poor, and was under the rule of Miss Gregory.

Farrell induced a good-humoured butcher, John Purcell, to shelter the boy, partly (if we accept Purcell's own evidence) from kindliness of disposition, partly because, if the boy *were* legitimate, advantage might come of it. Purcell's evidence is bluff and characteristic. He said that the defendant, then Captain Annesley, came to his house, asked for beer, and addressed the boy as "Jemmy"; the boy addressed the captain as "Uncle Richard." The boy went to Lord Altham's funeral (November, 1727) and "came home all in tears." Three weeks later the defendant came and asked that the boy might

be sent to the house of one Jones. Purcell went thither with the boy, and with a sufficient cudgel. At Jones' he saw Uncle Richard (the defendant) in mourning, "with a constable and two or three other odd-looking fellows." The defendant told one of them to carry off "that son of a ——," and used much florid eloquence of this kind. Purcell took the boy, who was trembling with fear, between his knees, said he would brain any man who touched him, and carried the child home. But in February, 1728, the boy left his house for that of a Mr. Tigh. Purcell recognised the claimant as soon as he saw him on his return. The objections taken to Purcell's evidence by the counsel of the defendant were conspicuously trivial, too trivial to need consideration.

A barrister must do his best for his client, must suggest all kinds of objections to hostile evidence, though he himself cannot think the objections of any value. If Purcell believed, as he said he believed, that the boy was Lord Altham's "real natural son" (he meant legitimate son), counsel asked, why did he thrash the boy when the boy needed it? Why did he make no protest when the defendant succeeded to the estates and title?

The truth is, obviously, that Purcell befriended the boy from kindness of heart, with an eye also to the main chance if the boy were legitimate, that he "did not care to interfere as long as might had overcome right" (his own words). *He* could prove nothing. Asked how he knew that an ill-favoured one who lurked about his door was a constable, Purcell said that he "looked like a constable." What better answer, in the days of Jonathan Wild, could a man give? If he thought that the defendant meant to do the boy harm, why did he not apply to a justice of the peace? "He did not care to go to law about it, but he took care to keep the boy within doors."

At Jones' the boy had implored him not to let "Uncle Dick" get hold of him, upon which deponent told him he would lose his life before he should be taken from him. He thought himself able to protect the child.

Mr. Purcell was not like Mr. Mackercher, a philanthropist; he plainly declared that he was not even purely disinterested. He kept the boy in hopes that the boy "might recover his birthright," and be grateful; also because he himself was a

good fellow. When the boy left him and went to Mr. Tigh he took no more trouble; the boy might resent having been "corrected" (deservedly) for staying out all night.

The defendant, at Jones', used language unbecoming a chairman; this nobleman's style of speech on all occasions was that of Gin Lane; whenever his words are reported a modest critic must omit the flowers of his rhetoric. Uncle Dick, asked to explain his proceedings, told Mr. Purcell that "he could not make his appearance at the Castle, or anywhere, but he was insulted on that thieving son of a ———'s account."[1]

Here perhaps we have this nobleman's actual motive. He was asked questions at the Castle about this dubious boy. In 1727, if the boy were a bastard, his uncle, if a wise man, would have proved the fact; if a man of ordinary mould, would then have provided for the boy in a suitable manner—no great expenditure was needed. But the Hon. Richard Annesley was neither wise, nor of ordinary mould, nor of common, decent kindness. He caused the boy to vanish, and, in his fool's heart, thought that all was well.

Neither this procedure nor his later performance, when he prosecuted his probable nephew for murder, [illegible] a presumption that he knew the child to be legit[illegible] he knew that the child was, to him, a nuisance, and t[illegible] that seemed the easiest, cheapest, and shortest way of getting r[illegible] of him. As it chanced, the ways were neither short, nor clean, nor cheap, but endlessly long, and extremely expensive, and in a high degree infamous. It was not Charles Reade, it was not the patriotic Smollett, it was the author of *Barry Lyndon*, who, as a novelist, should have dealt with Uncle Dick—with Richard Annesley, Earl of Anglesea.

That the boy was a nuisance to this nobleman appeared from the evidence adduced for the claimant of Mr. Silcross Ash, one of the attorneys of the Court of Common Pleas. He was in company with Lord Anglesea, after the death of Lord Altham (1727), and heard a gentleman say that at Lord Altham's funeral there was a boy who cried and made a great noise, and called himself Lord Altham's son. The defendant "swore he was an impostor and a vagabond, and ought to be

[1] See page 142.

transported." The talk arose out of the fact that either one Wilkinson, or one Cavanagh, a dancing master (mixed up in the defendant's assault on Mr. Mackercher at the Curragh squabble in September, 1743), had been sent by the defendant to Mr. Hawkins, King-at-Arms, to enrol him as Baron Altham. Hawkins had demurred on account of the boy's proclamation of himself as son of Lord Altham at the funeral. Ash said that if the boy was a vagabond he could be indentured as an apprentice, and transported. Some time afterwards the defendant said "in an easy manner" that "the boy was gone." Awkward evidence this of Mr. Silcross Ash!

The men who helped the boy out of the way next gave their evidence. Mark Byrne swore that one Donnelly, a constable, offered him half a guinea to join in an exploit. They went together to Jones' house, where the defendant accused the boy of stealing a silver spoon, and told the ruffians to take the lad to George's Quay. The boy cried and said that his uncle would kill or transport him. They put the boy in a boat, and poor Byrne received only a shilling from Donnelly. There was a crowd, and in the last part of the journey they took a coach.

To the same effect swore James Reilly, who had been a servant of the defendant. He said nothing of Jones' house; he was summoned to meet the defendant at George's Quay. Thence my lord *sent him to borrow a guinea*, which Reilly got from Mrs. Kelly, of the Butchers' Arms, near Inchicore. He returned, and the defendant gave the guinea to John Donnelly, who departed. Bryan Donnelly and Byrne put the boy into a boat, and defendant, the two Donnellys, Reilly, and the boy were rowed to a ship at King's End, a mile from Dublin. The walk in search of the guinea and the return occupied about an hour. As the Lord Chief Baron said, "There was a difficulty to reconcile the evidence of this Reilly," who was also on ill terms with Lord Anglesea about his unpaid wages.

The name James Annesley was shown entered in the list of indentured persons on board the ship *James*, which sailed from Dublin *on 30th April*, 1728. It was usual to indenture the servants before the Lord Mayor. Mr. Gonne, town-clerk of Dublin, produced the indenture book, in which was found no James Annesley, but a James Hennesley, indentured on 28*th March*, 1728.

Introduction.

Defendant's counsel very naturally insisted that this James Hennesley was merely James Annesley mis-spelled, as it was spelled "Annsley" in the ship's list of "men and women servants" on board. The reply was that Hennesley might be one of the twenty persons who appeared in the town-clerk's book of indentures, but who did not appear in the ship's list.

Serjeant Marshall, for the claimant, said, in addressing the jury, "I believe the gentlemen of the other side will not deny that the transportation is proved to a demonstration." But Prime Serjeant Malone, for the defendant, argued that Hennesley and Annesley were the same person, that Hennesley was actually indentured *in March*, and that probably the boy, tired of staying with Mr. Tigh, had indentured himself, and gone to America of his own free will. The coincidence of a James Hennesley, who was indentured and disappeared a month before James Annesley was kidnapped and put on board ship, is in a high degree improbable, though more improbable coincidences have occurred. There is the chance that some creature of the defendant did in March indenture a boy under the name of Hennesley, and then let him go, to be cover for the later transportation of James Annesley; but this proceeding is too clever to be of defendant's own invention. Reilly's evidence about the borrowed guinea can hardly have been invented, and is very characteristic of the impecunious Uncle Dick.

Accepting Purcell's evidence as to the scene with the ruffians at Jones' house, the intentions of Uncle Dick were then obvious, and the presumption is that he did succeed in kidnapping and transporting the boy on 30th April, 1728.

XIV.

The Staines Shooting.

The next step in the claimant's case was to prove that the defendant malignantly prosecuted him for his accidental shooting of Thomas Egglestone at Staines, thereby showing that he knew the claimant's claims to be just, and therefore endeavoured to have him hanged. The chief witness, John Giffard, an English attorney in the Court of Common Pleas, we have met before, engaged in working up the Staines shooting

case for the defendant. There was dispute as to accepting the evidence of a solicitor against a client, but the three judges concurred in admitting Giffard's testimony. Giffard swore that between December, 1741, and 2nd May, 1742, Lord Anglesea was involved in lawsuits with his kinsmen, Charles and Francis Annesley. These suits arose out of the inconceivably confused will made by James, second Earl of Anglesea, on 14th May, 1701. According to Giffard's evidence, in March and till 1st May, 1741, Lord Anglesea, who had heard of the claimant's intended return from America to England, declared that for £2000 or £3000 a year "he would resign to the claimant the estates of Anglesea and Altham, and would retire to France, for he was weary of being sued and tormented, and would rather his brother's son should have it than any other person. For if Jemmy had the estates on these terms he should live much happier and easier in France than he was here, for it was his right, and he would surrender it to him." Lord Anglesea was so much in earnest that he engaged a Mr. Hayes, an officer in French service, to teach him the language of Moliére, and Giffard saw teacher and pupil together "forty times."

In these resolutions the defendant remained till on 2nd May he heard that the claimant had shot a man at Staines; then he suddenly changed his mind, and sent for Giffard to watch the Staines case, while he should work with a surgeon, a led captain of his, named Jans, later conspicuous in the Curragh assault. My lord said, with characteristic inconsistency, "that he did not care if it cost him £10,000 to get the plaintiff hanged, for then he should be easy in his title and estate." But he would have been no easier than before, for he would still be pestered by the suits of Charles and Francis Annesley and other litigants.

Meanwhile Mr. Jans, the led captain and agent of Lord Anglesea, supplied money to Mr. Giffard when money was needed. Knowing all this, and knowing, as he admitted, that "Lord Anglesea's resolution was to destroy the plaintiff if he could," Mr. Giffard acted as Lord Anglesea's agent, and, later, betrayed Lord Anglesea's confidences. He apprehended that "Lord Anglesea was engaged in a most wicked crime," "but any lord is apt to be very flashy in his discourse." Mr. Giffard

added this deserved criticism, "If there was any dirty work I was not concerned in it. . . . I make a distinction between carrying out a prosecution and compassing the death of a man."

"How came you to make that distinction?" "I may as well ask how the counsel came to plead the cause."

Here (*The Trial at Bar*) Mr. Baron Mounteney interjects, "An attorney might think himself well warranted by the verdict founded upon the coroner's inquest to prosecute, and not think it a bad action."

All depends on the attorney. Mr. Giffard was not a Bayard! The prosecution cost £800; Mr. Giffard was only paid £470. He was obliged to sue for his right. Lord Anglesea "filed a bill in the Exchequer to disclose what business I had done for him": Mr. Giffard, in reply, was obliged to disclose this business in his bill of costs; the truth came out, and Mr. Giffard was subpœnaed as a witness in the great trial. I have now mentioned that Lord Anglesea sometimes spoke of the claimant as his own bastard, sometimes as his brother's. Yet the flashiness of this nobleman's discourse led him at another moment to say that the title and estates "were Jemmy's right." What Lord Anglesea said at one moment he contradicted in the next; his motives were a mixture of spites and rancours against all and sundry, and no conclusion as to his knowledge of the claimant's birth, legitimate or illegitimate, can be drawn from anything that this nobleman said or did.

The observations made by the counsel on both sides have been introduced into the narrative when they seemed to the point. The claimant's counsel insisted that Lord Anglesea's conduct, in the transportation of the boy, and in the Staines case, was strong presumption of his knowledge that his nephew was legitimate.

XV.

The Defendant's Witnesses.

After some remarks of the Attorney-General on the various improbabilities in the claimant's case, and on the absence of Joan Landy from the witnesses' table, Colonel Loftus was called. He was a grandee whose house was distant eight

miles from Dunmaine. He "had heard that the Althams lived there"; never visited them, never heard of the birth of a child to them; knew Alderman Barnes; knew that his health was impaired, but offered no opinion about his mind and memory. He had once seen Lady Altham: "at a distance, she was shown to me at a window, and I was told it was her."

Thomas Palliser, senior, was a neighbour of, and very intimate with, the Althams. He must have heard of it if she had a child or miscarriage. Joan Laffan had been turned out of his own house for incontinence, and was an infamous woman. Mr. Palliser's memory for dates was impossibly hazy; he had no support for his assertion that Joan was not to be believed on her oath. He remembered seeing Lord Altham in Dublin when "the Pretender" was in Scotland (January, 1716). Lord Altham had then lost an eye. But he lost this eye after he left Dunmaine, that is, in 1718; "he was shot in at the window, and never lived at Dunmaine after." Such was the memory of Mr. Palliser!

William Wall, Esq., of Maryborough, spoke of a conversation with Lord Altham after 1725. Wall about that time saw the boy at Ross, ragged and neglected, and Lord Altham said that he was Joan Landy's brat of dubious fatherhood; the boy was then six or seven years old. The boy must have been ten or eleven, and we never hear that he was near Ross in or after 1725. Nor was Lord Altham living at Dunmaine "about 1725, 1726, or 1727 or 1728"—when he was dead! Mr. Wall was the most hopeless of witnesses.

The evidence for the defendant of Mr. Lambert[1] was so handled by the Lord Chief Baron, in addressing the jury[2] as rather to favour the claimant. Mr. Lambert was frequently at Dunmaine, "dunning" Lord Altham, as he said, for a debt. He spoke of one Sutton, a famous surgeon, dismissed from Lord Altham's household about two or three months after Christmas, 1713. This might bring the dismissal to March. Sutton went to live at Ross, and "some time afterwards" (say in April) Lady Altham thrice sent for Sutton to attend her. Sutton twice refused to come, out of pique, but did go to Dunmaine when Lady Altham's chariot

[1] See page 177.
[2] See page 321.

was sent to fetch him. He then attended Lady Altham "for about a fortnight." The Lord Chief Baron suggested that this long attendance might, in the jury's opinion, "tally pretty near" with the miscarriage attested by Mrs. Cole. Asked as to the relations between Lord Altham and his brother the defendant, Mr. Lambert said that they were variegated. He met the defendant, then Captain Annesley, in Ross. Captain Annesley said, "Damn that Moll Sheffield; she has turned me out of the house on account of my principles!" What the defendant's principles were is unknown, but "Moll Sheffield" for Lady Altham is the term used by Lord Altham for the mother of his child, to the bewilderment of Alderman Barnes, who certainly did not invent that part of his evidence. Joan Laffan was a —— and a thief, in Mr. Lambert's opinion. He had been ill for six years and "I have forgot everything remarkable." However, Mr. Lambert swore that, though a neighbour of the Altham's, he never heard a whisper about a child born to Lady Altham. On the other side, though not during the trial, Mr. Sandford of Sandford Court, in 1715 High Sheriff of Kilkenny, made oath that Mr. Lambert had joined him in congratulating Lord Altham on the birth of an heir, and in "drinking the health of the young peer." (See his evidence later.)

Was there ever (as Mr. Mackercher had prophesied that there would be) such "bloody swearing"? We have here, not a contradiction between two ignorant peasant women, but between two men of good estates and high standing in Irish society, and Mr. Sandford's evidence is full in detail.

Mr. William Elms was equally rich in details as to Joan Landy, whose brother was a cotter on his lands. He often saw her child at her father's cabin; the child was not less than three years old, was between three and four when Lady Altham left Dunmaine. (He must have been under two years old.) There was no road from Dunmaine to Joan's cabin, which was of one room with a partition of turf, and was "full of dung." Joan Laffan could not be credited on oath.

The undefeated Joan was called, "when she comes upon the table and says, 'Your servant, Mr. Elms.' Asked if Mr. Elms could be credited on his oath? 'Indeed, I believe so; I can't say no harm to the gentleman,'" answered Joan. She stood

by the road to Joan Landy's house. Elms first denied that there was any road, and then said that the road was made to lead to Captain Giffard's house—which certainly was not the case. He made an effort to accuse Joan of stealing the feathers out of a feather bed when she was leaving Dunmaine. Joan had her *riposte* to this charge.

The next witness, Mrs. Giffard, as a very near neighbour and intimate of Lady Altham, was most important. Either she or the claimant's best witnesses committed deliberate perjury, wilful and corrupt. Her jointure (£40) was charged on an estate of the late Lord Anglesea's; she never heard that the defendant claimed the rent. Mrs. Giffard not only never heard of any prospect of a child to Lady Altham, but was in her company at the Wexford Assizes, 16th-22nd April, 1715, at the very time when Lady Altham must have become a mother, or, at all events, could not have been amusing herself at the trial of some alleged Jacobites, Masterson and Walsh, at Wexford. "We lodged at one Sweeny's." We could not guess that "one Sweeny" was the husband of Mrs. Giffard's sister, and that Mrs. Sweeny, who did not appear at this trial, because she remembered nothing of the matter, would be able to give a very full and particular account, in the trial of Mary Heath (1745), of Lady Altham's residence in her house in April, 1715. Under cross-examination Mrs. Giffard said that in Court, at Wexford, Mr. Cæsar Colclough sat beside her and Lady Altham. (This Mr. Colclough vigorously denied.) Mrs. Giffard never used the road which, on Elms's evidence, led from Dunmaine to her house.

As the judge said in summing up the case to the jury, if it could be proved that Lady Altham was at the assizes from 15th or 16th April to 22nd April, in 1715, then went back to Dunmaine for two or three weeks, and then went to Dublin for the season, the story of her confinement in April-May, 1715, was absurd. But Ker, clerk to Lord Chief Justice Foster, could not remember the presence of any ladies at the assizes. Mr. Colclough (who was present and concerned about a kinsman involved) said that he "could not remember to have seen Lady Altham there, and she could not attend that trial and sit near him but he must have known it. He could not have sat by any lady at that trial, he war solicitous for Mr. Masterson,

who was his relation, and if any woman of distinction had been there, he believes he should have heard of it." He added, under cross-examination, that he knew nothing of Mrs. Giffard's character as a witness, but that "she was very poor."

The Lord Chief Baron added that two witnesses, Turner, the seneschal, and Higginson swore—Turner that he saw Lord Altham go into the coach and start for Wexford, while Lady Altham stayed at home; Higginson that he was at Dunmaine on the Tuesday of the assizes, saw my lady, and "drank to her safe delivery." Further, Mrs. Giffard said that another sister of hers did not go with them to the assizes, and Mary Heath said that Mrs. Giffard's sister rode with them thither (and in 1745 the evidence of her sister, Mrs. Sweeny, supported Mary Heath).[1] Such are the flat contradictions of evidence in every essential point.

The next witness, Mr. Thomas Palliser, was but a schoolboy in 1713, and was constantly at Lord Altham's house. Early in 1716 Lord Altham told him that he was determined to get rid of his wife, for Lord Anglesea detested her, "and, since I have no child by her, I will part with her." Four or five days later his lordship executed a plot to get rid of his wife. He awoke Mr. Palliser early on a Sunday morning (here Mr. Palliser mentioned that he had a premonitory dream), said that he was going to church, and bade Mr. Palliser "keep her ladyship company." Palliser went to Lady Altham's room, "where he had often breakfasted before," when in came my lord, with servants, and thrust at him with a sword; he was then hustled into another room, where he was knocked senseless, and a servant cut a piece of his ear off. He never saw any child in the house. He never saw a child in Joan Laffan's arms; Joan was "a vile woman," a chambermaid.

Joan was called back; she mentioned undignified details about Mr. Palliser; said that, on this fatal Sunday morning, he and Lord Altham, with two hangers-on, breakfasted together in "Sot's Hole" "on mulled wine," that Palliser then walked into Lady Altham's bedroom, where he put on a satin nightcap of my lord's. She described the atrocity committed on Palliser; she entered the room after it, and the child in her arms pointed to the blood. She had before that

[1] See page 319.

seen Palliser playing with the child. Palliser swore that he never saw any child in the house.

The Lord Chief Baron said that she had not contradicted herself, but that she and Palliser flatly contradicted each other. Palliser admitted that Joan's memory was correct about the drinking of mulled wine in Sot's Hole. He believed that he wore a white nightcap in Lady Altham's room. As for Lord Altham, Mr. Palliser challenged him twice, and "posted" him on the Cross at New Ross, but Lord Altham fled the country.

Certainly either Mr. Palliser or Joan, with her vivid memory and details in the manner of De Foe, was deeply perjured, and it is hardly conceivable that Mr. Palliser should be the sinner. We know nothing of him except from the trial, but to believe in such villainy on his part is difficult.

Thomas Rolph, some time butler to Lord Altham, was, as the Lord Chief Baron remarked, a very clear witness for the defendant. Rolph averred that he was in Lord Altham's service both before and after the date of Lady Altham's alleged delivery, which contradicted the statements of witnesses for the claimant; according to them, Meagher was butler. There was no child born to Lady Altham. In cross-examination he attributed the fatherhood of Joan Landy's baby to—the defendant! He remembered many names of the servants, but not that of Mary Doyle. He said that Mr. Mackercher had tried to bribe him by the offer of a lieutenancy. He swore that the Althams were at Wexford Assizes in April, 1715. The Lord Chief Baron said that Rolph, in cross-examination, showed "absolute uncertainty as to everything except what he was brought to disclose," while he differed entirely from Mrs. Giffard's evidence as to the famous road to Joan Landy's cabin. Anthony Dyer, Lord Altham's valet, also fell into a great discrepancy compared with the other servants on the defendant's side.

XVI.

Mary Heath.

We now arrive at Mary Heath, Lady Altham's maid from 1713 to 1729. We have already seen that an all-important piece of her evidence—Lady Altham never showed signs of

maternity—was disproved by Dr. Jemmat and Mrs. Mouerieffe (in Mary's trial for perjury, in which she was acquitted in 1745). Mary Heath found Joan Landy already with child about Christmas time, 1713. She "did not care my lady should know anything about it," which would explain Lady Altham's taking (if she did) Joan for her own child's wet nurse. She swore to the visit to Wexford Assizes, with a discrepancy from Mrs. Giffard's testimony, as we saw. The trouble with Tom Palliser was in the early morning, but it was "duskish" before Lady Altham left the house for Ross. Dusk is early in February, but some eight hours must have passed. Betty Doyle, not Mary, was in the family. Here Serjeant Malone deserted his witness. It was to the handsome Mary that Major Fitzgerald gave half a guinea at Dunmaine, according to the Serjeant and Major Fitzgerald himself.

We have already discussed Mary's contradictions of Mrs. Cole about Lady Altham's miscarriage, her denial that Lady Altham ever showed any sign, or even had any hope of being a mother. On these points she cannot have sworn truly, and, again, she could not remember, though her memory was wonderfully good, the fortnight's attendance of Sutton, the surgeon, on Lady Altham.

She told a curious story about Mr. Mackercher. He visited her at her house on 13th April, 1742; she proved the date by a document. At that time Mr. Mackercher had not wholly committed himself to the claimant's cause, and he told Mary how the claimant had been brought to her by Mr. Simpson and another naval lieutenant; how he gave the claimant ten guineas and a room in his house, and asked Mary if Lady Altham ever had a son. Mary denied, told him about the iniquities of Joan Laffan, and so moved "the melting Scot" that he vowed he would abandon the whole case.

Mr. Mackercher, unhappily for himself, changed his mind, though not on the evidence of a Mr. Hussey, concerning whom Mary was asked questions by the claimant's counsel. Mary's memory was very weak as to when she first met Mr. Hussey, counsel suggesting that it was when news first came in the *Daily Post* to the effect that Mr. Annesley was on a ship of Admiral Vernon's (12th February, 1743). Counsel was right. Mary swore that she never heard even a report that Lady

Altham had a child at Dunmaine, and, as Major Fitzgerald, Mr. Shawford, and others make it certain that the report was rife, we cannot but surmise that Mary proved too much.

Martin Neif, the blacksmith at Dunmaine, identified the boy who was in the house and at Kinnea with Joan Landy's brat. Lord Altham would flog him sorely for petty faults, and say that he had too much of Joan Landy's blood in him. He accompanied Lady Altham to Ross on the day of separation; she took leave of no child, as Joan Laffan swore that she did. At Kinnea the child was treated as a bastard. Martin Neif was not shaken in cross-examination. Two or three other people of his rank were equally firm on the defendant's side.

The Rev. Father Michael Downes knew Lord and Lady Altham, lived within a mile of them, dined with them, and never heard that Lady Altham had a child. He did, however, christen Joan Landy's child, whom he afterwards saw with Lord Altham at Dunmaine, when his lordship said to the little boy, "You son of a ——, why don't you make a bow to him who made you a Christian?" The child was brought to him for baptism by Joan Landy's grandmother.

Against Father Downes the claimant produced Father Ryan, who swore that Father Downes had told him, while they were riding together, that he was to receive £200 for his evidence. Ryan said, "You are old; your memory may be treacherous," whereon Downes replied "that he should get absolution from some other gentleman if his memory was not sufficient to support his oath." Downes denied the whole conversation, and Colonel Loftus, on whose ground he lived, gave him a good character.

The evidence of Mr. Robert King, an alderman of Dublin, was purely negative, but made for the defendant as far as it went. Lady Altham, with Mary Heath and a footman, lodged at his house in 1723, and the lady dined at his table for several months. "She had a paralytic disorder," but her mind was sound; she often lamented her misfortunes, but Mr. King never heard her talk of a son. He was not cross-examined.

Elizabeth Doyle was a set-off against Mary Doyle. She came to Dunmaine on Christmas Eve, 1713, and was laundry-maid. Her evidence was that at some uncertain date Lord Altham asked her to dry-nurse Joan Landy's child. She

never heard that Lady Altham had a baby. She did not remember the names of any of the servants who were with her at Dunmaine, and she did know Mr. Jans, the defendant's led captain, who got up the case, and did much dirty work for his lordship.

Elizabeth MacMullen gave similar evidence, but added that at Lord Altham's funeral the boy said he was the son of Joan Landy and Lord Altham, and wept. The boy can scarcely have given this pedigree on that occasion! Mrs. MacMullen was too eager.

Thomas Barrett swore that the boy lived in poverty at Ross, about 1724. The boy was about five years old, which would place his birth in 1719. Colonel Becket and William Harman, Esq., were perfectly positive that Lord Altham spoke of the boy as a bastard, in Miss Gregory's time and earlier, at Kinnea. In fact, if sworn evidence could prove anything, the defendant's witnesses and the claimant's proved contradictories.

When all the witnesses for the defendant had been heard the claimant's counsel were allowed to call fresh witnesses. They heard with pain that the credit of Joan Laffan was impeached; Joan must be cleared. First, as to Wexford Assizes, they produced Mr. Cæsar Colclough, who, according to Mrs. Giffard, had sat next Lady Altham and herself. Mr. Colclough remembered the trial very well, for his kinsman and friend, Mr. Masterson, had been accused of raising recruits for King James; and, "by the virtue of his oath," Lady Altham did not sit near him, he would not sit that day by any lady; nor did he believe that Lady Altham was in the town that day. "I was taking care of Mr. Masterson. I would not at that time have sat by the fairest lady in Christendom." Mrs. Giffard's family was reduced, and poor—"their circumstances are altered, and so may their honesty be for ought that I know."

John Hussey was then called. He explained that on Thursday last a person had whistled at his gate and roused one of his servants. The person gave the name of "Keiling" or "Keith" (Paul Keating probably). The person was sent to ask about a conversation which Hussey once had with Mary Heath. Hussey said that he had "forgotten good part of it," but saw the man, who served on him a subpœna. The gist

of Hussey's memory was that "about two years and a half ago" (early in 1741, when news of the claimant's return from America arrived) a gentlewoman took him to drink tea with Mrs. Heath, who said, "Nobody knows that young man's affairs better than I, because I long lived with his mother, the Lady Altham"; and she (Mary) "expressed a great deal of concern for him and the circumstances he was in. She told me, withal, that the Duchess of Buckingham" (the duke, Lady Altham's father, was dead) "sent for her three times. . . ." Now, Mary Heath, under cross-examination, had said that she first heard of the claimant's purpose of returning from the duchess, who had made a small pension to Lady Altham. Cross-examined, Hussey said that he had spoken of this talk to many, including his brother, but never to any agent of the claimant before Friday last. He had been steward to one of the Royal yachts. In July, 1743, Mrs. Heath had told him that she was going to Ireland to be a witness for the defendant. This struck him as being at variance from her concern for her mistress's son in 1741. He was positive that then Mary Heath spoke of "his mother, Lady Altham." Being a Catholic he held no commission; he was employed by the Board of Green Cloth.

Mary Heath was recalled, and swore that she had never used the words attributed to her. As for Hussey, "some said that he was a gentleman's servant, and some that he lived by gaming."

Hussey, recalled, repeated his statement. Mary exclaimed, "I never thought you were such a man. I've heard people say you were a gamester, and lived in an odd way, but I would never believe it till now; but I always took your part, and said you always behaved like a gentleman."

Mr. Hussey replied, "I am a gentleman, and can bring several people to justify me to be a gentleman and a man of family. Indeed, I have heard you say it, and speak it with all the regret and concern imaginable"—regret, namely, that, being a gentleman, he was reduced to a small post under the Board of Green Cloth. He appears, in Ireland, to have had a house with a gate and a gravel walk, and servants. Under cross-examination he said that he knew not, till subpœnaed on Thursday night, that he was to be a witness. He said nothing

to Mary Heath upon her change of mood in July. (If he were a gentleman, of course, he would not do so, as he observed in answer to defendant's counsel, "it was no affair of mine.") Moreover, at the talk in July the conversation of 1741 was not present to his memory. "It did not come into my head; I gave myself no trouble about it." It had been in and out of his memory; he could not be certain whether it were in or out in July last. The persons whom he named that were present at the conversation in 1741 were not present at this trial, or at that of Mary Heath. Hussey does not seem to have lied; he might have a hallucination of memory, or he might remember correctly. The Duchess of Buckingham was not called. Higginson now gave the evidence on which we have already commented as to his seeing Lady Altham, great with child, at Dunmain during the Wexford Assizes.

Father Ryan, as already said, spoke of Father Downes' ride with him a twelvemonth before and his talk of receiving £200 for his evidence, and getting absolution if he had misremembered. Father Downes denied that he had ever ridden with Father Ryan. "I rode along with you," said Ryan, "to the place where you used to say Mass, and Mass was not had there, because a woman was dead in the place, and so we rode on to Tyntern." "If that was the time, I believe I was with you," said Father Downes. He then denied the whole conversation, and spoke of his brother in Holy Orders as "a vile, drunken, whoremaster dog"; such were his apostolic phrases.

Mrs. Cole and Mary Heath were confronted, and contradicted each other.

Here the edifying contest of witnesses ended.

XVII.

Speeches of Counsel.

Mr. Prime Serjeant Malone, after making a long statement about the confused wills and codicils of James Earl of Anglesea (November-December, 1701; January, 1702), dwelt upon the huge improbability that the birth of an heir to Lord Altham would not have been blasoned abroad and firmly registered. But there was no parish register; and Lord Altham was—Lord Altham! We must remember that things all but morally

impossible were even probable in the conduct of this besotted being at feud with the contemporary Earl of Anglesea. As for Lady Altham, her father the duke, outwearied by her conduct (she was said to have borne a child to a Mr. Segrave in Holland), actually caused her tiny pension from him to cease at Lord Altham's death. Lord Altham had proclaimed his fatherhood to Major Fitzgerald, Lord Mount Alexander, Turner, Mr. Barnes, and Mr. Shawford, then High Sheriff of Kilkenny, all of whom reputable witnesses, surviving in 1743. He may have thought that he had done enough; and, if he lied—it was very like him to do so. But where did he get the new-born babe shown to Major Fitzgerald?

Malone's attack on Mrs. Cole's evidence was confused by the fact of her true age in 1714, of which she did not procure evidence till the trial in 1745. Malone made the most of a very strong point—the claimant's witnesses remembered Meagher as butler at Dunmaine in April, 1715, whereas Rolph butler in 1714, continued to serve till Michaelmas, 1715. The reply from the other side was that Rolph's and Mary Heath's evidence were manufactured articles, as Rolph showed by inventing an excuse, which was proved to be false, for the road made to Joan Landy's house, and by certain features of the visit to Wexford Assizes. Of Malone's treatment of Major Fitzgerald's evidence we have said enough—it is amazing that a man foremost in his profession should have blundered in that fashion. Again, he offered as a solution of Joan Laffan's evidence the hypothesis that she "came into Lord Altham's service about harvest in 1716, and that she lived in the service about half a year before the separation." But the separation occurred seven months before the harvest of 1716. Moreover, Mr. Tom Palliser admitted the accuracy of Joan's memory of some details of the stormy day of separation. Mr. Prime Serjeant Malone was as much perplexed among his dates as any peasant who gave evidence, if we may trust the long report of his speech in the Folio of 1744; and he had forgotten Mr. Tom Palliser's evidence.

The learned serjeant asked if Lord Altham's cruelty to the boy, if the boy were legitimate, "could be conceived of in any man living of common sense, goodness, and humanity." But to be wholly destitute of common sense, goodness, and humanity

was the very essence of the character of Lord Altham, while his cruelty and neglect were incompatible with sense, goodness, and humanity even if the boy were a bastard. The improbability of Lady Altham's making no effort to see the boy in Dublin, when he was decently treated, is great; but if she said, as one witness swore, that she could not protect Lord Altham's servants if they brought him to her in her paralysed condition, she spoke sense, and Lord Altham's servants knew that she was poor and powerless. The attempts to explain away the kidnapping and transportation of the boy were failures; but it was easy to "abuse the claimant's attorney," the attorney Giffard, who revealed the confidences made to him by the defendant, about his readiness to spend £10,000 in having the claimant hanged.

The Solicitor-General treated as manufactured evidence that of Turner, Barnes, and Major Fitzgerald. The major's tale about all that occurred at Dunmaine is "the deckings and ornamental parts of his story, which are now become useless by his failing in fundamentals"—that is by his erroneous date, September for April-May.

A barrister must be staunch indeed to his client when he can treat hostile and honourable testimony with such easy impudence. He concluded, "The plaintiff's witnesses are mean persons," whereas many of them were of good character and position. As to Hussey, the Solicitor-General actually said that the claimant's friends "made the man get acquainted with Mrs. Heath and lead her into a discourse," namely, early in 1741, when the claimant was on the high seas, was not known to be alive, and had no backers!

The three reports of the speeches of counsel in the Folio, *The Trial at Bar*, and the *State Trials* differ from each other in content and extent. It is in *The Trial at Bar* that we find Prime Serjeant Malone displaying colossal ignorance of his own case, with a scarcely rivalled power of losing himself in dates; and it is in the Folio that the Solicitor-General insults Major Fitzgerald, Alderman Barnes, and Mr. Turner, and blunders over Mr. Hussey. The *manes* of the learned counsel engaged must be placated by the statement that, in such diversity of reports we do not know what they said. Mr. Serjeant Malone may not have been intoxicated. Mr. Solicitor-General may have been

sober and may not have been insolent. The reporters in shorthand may have been under drink taken and eloquently inventive. *Que sçais je?* Perhaps the reporter of the Folio invented for the Solicitor-General the argument that Mrs. Pigot, Mr. Colclough, and Mr. Cliffe, "gentry of middling fortune and families," were not great enough folk to be godparents of Lord Altham's son. They were gentle-folk, and grandees like Colonel Loftus were unacquainted with the disreputable, disorderly Althams. But Mrs. Pigot was kind to poor Lady Altham, and her son, Mr. Southwell Pigot, was not allowed to answer the question, "Do you remember whether you ever heard from your mother whether she was godmother or not?"[1] It was known that his answer would be in the affirmative. Mr. Paget, in his *Paradoxes and Puzzles* (1874) writes that the families of Colclough, Pigot, and Cliffe "still hold high positions in the county of Wexford." Members of such families were the very best that Lord Altham could hope to obtain as sponsors of his child.

As for Mr. Recorder, his arguments rested on the theory that Lord Altham could not have been the kind of man he undoubtedly was, and that people could not, if truthful, be hazy about the date of an eclipse of twenty-eight years ago! "This is impossible."[2] The Recorder had a better point. John Scott, sometime servant of Mrs. Pigot, swore that "a dozen times" he carried messages from that lady to Lady Altham, with inquiries as to her health and that of the baby. He saw the boy brought to Mrs. Pigot three or four times. He delivered his messages to my lord's gentleman, Dyer, and to Joan Laffan. "Who was butler?" "One Thomas Rolph." The Recorder argued that Scott was right about Rolph, but lied about the child and the messages. Yet Scott's memory might conceivably be wrong as to the date when Rolph left his place.

Mr. Serjeant Marshall's speech for the claimant was much shorter than that of Serjeant Malone. He made no blunders,

[1] Folio, p. 36.

[2] From personal experience I can say that nothing is more probable. I was two years out in my dating of a very pretty comet, Halley's, which in boyhood I used to contemplate as it shone above the hills of Ettrick.

and only very lightly touched on Serjeant Malone's chronological error about Joan Laffan's date of residence at Dunmaine.

He pointed out the disadvantages of his client. Exiled by the defendant, he had lost some fourteen years in which witnesses now dead could have spoken for him. As to the want of celebrity of his birth, the serjeant named the respectable witnesses who had heard of it at the time. The Althams had few friends of position. Mrs. Giffard and Mrs. Latimer even did not visit Lady Altham when she went to stay at New Ross, but, by Mary Heath's evidence, Mrs. Pigot came frequently.

If a false story was to be concocted on either side, the defendant, from his wealth, position, influence, and knowledge of the country could procure witnesses much more easily than the claimant. Seven or eight of the defendant's witnesses, with very bad memories, reported with verbal sameness remarks uttered thirty years ago, if uttered at all. The serjeant made the most about the denial of the making of a road to Joan Landy's house; the withdrawal of the denial; the false attempts made to show that the road was constructed for other than its one purpose. As to Lady Altham's not seeing her child in Dublin in 1720-1724, the child was in his father's keeping till August or September, 1724, when Lady Altham sailed to England. Forsaken, poor, unable to move, Lady Altham could do nothing. The serjeant argued that in Lord Altham's last wretched years "it was absolutely for his benefit, in order to raise money, to desert this son and to disown him." The evidence of Wall as to seeing the boy in Ross in 1720-1721 was contradicted by all the testimony. Lord Altham was fond enough of his son till he fell under Miss Gregory, who hoped to marry my lord and have children to him. A mean mind like his might be led to believe that, though the child was Lady Altham's, it was not his own; an embittered suspicion would be increased by the greater chance of raising money if he disowned the boy, and his besotted brain would render him reckless and indifferent. Counsel laid stress on the evidence of Lutwich, the soldier, who made shoes for the boy when Lady Altham lived at Wright's house in Ross, where she certainly did live. Lutwich, indeed, was among the best of the witnesses; he was a man well to do, and lived in England, independent of Irish influences, and, under cross-examination, he was very satisfactory.

Nothing novel was said by Serjeant Tisdall, but he did allude to the possibility of a theory that Lord Altham "could have formed a scheme of imposing a child upon a noble family." If so, where was the child? The child of Joan Landy was recognised universally as a bastard; and defendant's witnesses swore that there was no child at Dunmaine while Lady Altham lived there. If they had *not* with one voice made this denial, if there were any trace in defendant's evidence of a new-born child's appearance in the Altham family in 1715, then the theory of an Altham plot to bring in a warming-pan heir would be by far the most simple solution of the problem. But the defendant's witnesses closed that door. Mr. Walsh argued that Martin Neif's evidence as to the ill-treatment and neglect of the child at Kinnea, and the cruelty of his treatment, was contradicted by the testimony of many witnesses, such as the two Cavanaghs and Byrne. Lord Altham's neglect of the boy was due to Miss Gregory, and to his own ever-sinking character.

XVIII.

The Judges' Addresses.

The Lord Chief Baron reviewed the whole case with great lucidity, admitting the importance of Rolph's evidence for the defendant, but dwelling on "his absolute uncertainty as to everything" under cross-examination, and his invented explanation of the reason for constructing the road to Joan Landy's cottage. His lordship then, as we saw, stated the great improbabilities of the plaintiff's case, adding that the jury must carefully consider the characters of Lord and Lady Altham. Some discreditable witnesses for the claimant must not be placed to his blame, considering his circumstances, and "that art may have been used to put them in his way." On the other hand, if the jury believed in the "wicked acts" attributed to the defendant, they must regard them merely as raising presumptions that he was aware of the claimant's legitimacy, not as proofs. As to haziness about dates, that was common to both sides, and in this haziness he included Major Fitzgerald's date of his famous visit to Dunmaine. Lord Altham, said the judge, had sometimes asserted, at other times denied,

The Right Hon. Lord Chief Baron Bowes.

that he had a legitimate son; the jury might try to conjecture what his motives were in each case, and, if they could, might draw a conclusion.

The Lord Chief Baron's address was a model of logic, lucidity, and impartiality. It is impossible to detect the slightest effort to bias the jury on either hand, or any sign of how his lordship would himself have voted. For a contrast we have the extremely partisan charge, and the distortions of evidence which the Lord Chief Justice addressed to the jury when Mary Heath was tried for perjury.

Finally, after deliberating for two hours (*State Trials*) or for half an hour (*Folio*), the jury found for the plaintiff. Next day his counsel were bidden "take judgment," while to defendant's counsel a writ of error was allowed. As to public opinion, I quote the Duke of Devonshire, then Lord-Lieutenant:—

(State Papers, Ireland.)
(George II. vol. 405.)

Duke of Devonshire to Duke of Newcastle.

Dublin Castle, Nov. 26, 1743.

. . . Till Mr. Annesley's Trial was over all business was at a stand. To be sure there will be accounts of that remarkable affair in England from some of those that attended it. There is scarce any one here (at least amongst those I see or hear of) but thinks the Jury have gained great reputation by their behaviour. There was but one gentleman on it of a moderate fortune: they compute the estates of the whole twelve to be near 40,000*l* per annm.

Here is a journalist's view—

General Evening Post. No. 1503.

Saturday Dec. 3 to Tuesday Dec. 6, 1743.

Ireland.

(Extract of a letter from Dublin, dated 26 Nov. 1743.)

The great cause wherein the Hon. James Annesley, Esq., was Plaintiff ended yesterday, when the Jury after a few minutes consultation brought in a verdict for Mr. Annesley.

Never was a cause of greater consequence brought to trial; never any took up so much time in hearing, nor ever was there a jury composed of gentlemen of such property, dignity & character. Eleven of the jury are members of Parliament, several of the Council, & the only one who is not in either is a gentleman of 1500*l*. a year; the

whole twelve being worth a million. Two of them lose near 400*l.* a year by their own verdict, and three others are nearly related to persons considerably interested in the event of this great cause; yet such was their regard to Truth and justice that nothing could bias them against conviction.

No sooner had the foreman pronounced the words "We find for the Plaintiff" but the Hall rung with joyful acclamations, which in a few minutes were communicated to the whole city, and in less than a quarter of an hour all the streets seemed to be in a Blaze, and people of all conditions and degrees ran up and down congratulating each other as upon a public victory. In short never was there so universal a joy: the musick that played in the streets, even the Bells themselves, being scarce heard amidst the repeated hussas of the multitude.

XIX.

The Trial of Mary Heath for Perjury.

The claimant's affairs, if his funds held out, seemed to be going on favourably. In August, 1744, as we have seen, he was successful in his charge of assault at the Curragh against Lord Anglesea. Mr. Mackercher now made a tactical error. He accused Mary Heath of perjury, and on 24th October, 1744, the grand jury of the County of Dublin found a true bill. But by this time all the many persons variously interested in the Anglesea estates had united against the claimant—they had money and no scruples. The defendant Mary Heath removed the trial by *certiorari* into the Court of King's Bench, and delayed it, after the prosecutor's (the claimant's) witnesses had arrived. This is complained of in two printed letters called "A Narrative of the Proceedings of the Court of King's Bench." (London: J. King. 1745.) The author conciliates us by bedecking his title page with quotations from Webster and Massinger. He objects that such removals by *certiorari* are unusual; in this case it was oppressive, causing expense and delay; and the object was to secure a prejudiced Court unfavourable to the claimant. Lord Chief Justice Marlay, on the King's Bench, had "a singular attachment to a person, as is publicly known, whose all depends on" the verdict. This person, as I gather from her petition,[1] was Lady Haversham. It is undeniable, as the pamphleteer says, that "the partiality and warmth of the bench in favour" of Mary Heath was

[1] *State Papers*, Ireland, George II. vol. 406.

declared from the first. Later, as I could not but recognise in the report of Mary Heath's trial in *State Trials* (vol. xviii. 1-195), the Lord Chief Justice was distinctly unfair to the testimony of Mrs. Cole, Mr. Higginson, and other witnesses, actually declaring that they had said what they are not reported to have said. The pamphleteer makes the very same observations.

The day for the trial had been fixed, when Mary Heath, upon her affidavit that she could not yet procure the presence of certain English and Irish witnesses, was again allowed to postpone the case till next term, in spite of the objections of the claimant's counsel, whose witnesses had long been in Dublin "eating their heads off." The Court, none the less, put off the trial to 4th February, 1745.

But there are two sides to most questions—we must expose the events of November, 1744. The trial had been fixed for 14th November, 1744, but on 10th November Mary Heath applied for a postponement, and made an affidavit. Many of her witnesses were in England; others, in Ireland, could not at that moment attend. But more than this, the reader may remember that when Higginson saw Lady Altham at Dunmaine in mid-April, 1715, he also saw Sarah Weedon, then wife, and in 1744 widow, of John Weedon, Lord Altham's coachman. Mary Heath made affidavit that, as she was informed, Sarah Weedon was now living in the house of Colonel Blakeney at Abbort, in Galway, and was so infirm that "she cannot travel this term. Moreover, Mary verily believes and is credibly informed that James Annesley and his advisers have lately, by bribes and otherwise, tried to seduce and carry off the infirm Sarah, and had a horse and pillion ready, but were frustrated by Colonel Blakeney. Mary Heath therefore asks postponement till next term."[1]

On 13th November Mr. Mackercher swore a contrary affidavit. He had been put to great expense for witnesses by a previous postponement of Mary's trial. His witnesses were now again collected, and some of them had instant calls to England, where they were constrained to be next term. As for Sarah Weedon he believed her to be a material evidence for his own side. Believing this, he sent Sarah's son Edward to Colonel Blakeney's

[1] *State Trials*, xviii. 1-4.

to bring her, but Edward, returning, averred that Colonel Blakeney detained Sarah by force, though she declared her willingness to give her testimony. Edward and John Weedon (John was a servant in Colonel Blakeney's house) made affidavit to this effect on 8th November, and Mr. Mackercher had meant to move for a writ of *habeas corpus* for Sarah, but instead had sent a man to serve a subpœna on her. The man has not yet returned. Mr. Mackercher denies that any one to his knowledge has tried, by bribe or otherwise, to secure and carry off Sarah from Colonel Blakeney's house. In no case has he any knowledge of attempts to bribe on his side, but has very sufficient proofs of attempts to bribe, corrupt, and intimidate on the side of Lord Anglesea. The trial was postponed we saw to 4th February, 1745.

On 20th November, 1744, the claimant's party moved for an attachment against Colonel Blakeney for preventing Sarah Weedon from obeying the subpœna already mentioned. James Magrath, Esq., attorney, made affidavit that he accompanied Andrew Ross on 13th November to the colonel's place, where he waited outside while, as he believes, Ross served the subpœna. Ross then came out, observing that it was time for them to go, and that he would change horses with Magrath as soon as they turned the corner of the avenue. This was done, and Magrath, seeing mounted men following them, rode away swiftly, and so, he believes, escaped insult and injury. Ross corroborated and swore that Blakeney said he would send Magrath to Galway Gaol. "But the Court made no rule."

On 21st November the claimant's party moved for a writ of *habeas corpus* to Blakeney, resting on the affidavits of John and Edward Weedon, Sarah's sons, who both swore that Blakeney, on 30th October, detained her illegally and against her will when they came to fetch her. The doors were locked, and Sarah, from a window, told them as much, and bid them go away to escape being "knocked on the head."

On the other side, Thomas Blakeney, attorney, made an affidavit. Two days after the claimant's success, in 1743, his wife, who, like himself, lived near Colonel Blakeney's, wrote to him, telling him that old Mrs. Weedon lived at Abbort, and declared that the claimant was the son of Joan Landy, by Lord Altham as was supposed, and that in Ireland Lady Altham never bore a child. In last Christmas holidays Mr. Thomas

Blakeney went to Abbert, saw Mrs. Weedon, found that she gave this evidence, and again saw her, at full liberty, on 3rd November, 1744. He also learned from Colonel and Mrs. Blakeney that on 30th October, 1744, some people came and took away his servant, John Weedon, and that they had with them a horse with a pillion to carry off Sarah. Mrs Weedon also at the same time asked him to recover her son Johnny, carried away from his service, for she greatly feared that his seducers would keep him constantly under drink taken. On 8th November, at Dublin, Johnny came to deponent, who told him to go back to Colonel Blakeney. But Weedon said "he never would, for he would be much better provided for" by "the young Earl of Anglesea," the claimant.

All this looked very ill for the methods of Mr. Mackercher.

Another deponent from County Galway swore that Sarah was entirely mistress of her movements. Poor John Weedon next swore that his mother never said that she was detained against her will, but did declare that she was afraid of her life, afraid of being murdered by the Earl of Anglesea, who had sent last spring a man and a chair to bring her to Wexford, and served a subpœna on her, which she did not obey.

Edward Weedon also admitted that his mother did not say that she was confined or imprisoned. The original affidavits of both brothers, unable as they were to read or write, were written out by Mr. Goostry. Mr. Justice Ward said, "It is plain that the person who drew the affidavits knew that they were false, knew that these men swore to a fact they did not know to be true." The Weedons swore that their final confession was that which they told to the framer of the affidavits. But who can believe men so ignorant and so anxious to please? Probably they told Goostry all that he put into their affidavits—just to please him, and probably he did not believe them. However, in November, 1744, Mr. Goostry was not in Ireland, and could not be dealt with by the Court.

The pamphleteer of 1745 treats this matter thus. Some time after October, 1744, Edward Weedon, who had been page to the claimant in his childhood, told Mr. Mackercher that he had found that his mother, Sarah Weedon, had been taken into Colonel Blakeney's house, on the claimant's turning up, under colour of being a servant. To Edward Weedon she

had said that she could testify in the claimant's favour if she "could get out of that cursed country" where she was. Mr. Mackercher then wrote politely to Colonel Blakeney, received no reply, sent Weedon to bring his mother, served the subpœna, and moved for a writ of *habeas corpus*, as we have seen. The Lord Chief Justice then examined the two Weedons, against the remonstrances of the claimant's counsel (which is true), and, says the pamphleteer, on a quibble as to the language of their affidavits, committed them for "an intention of imposing on the Court." The defendant's party then made poor old Mrs. Weedon believe that it was the claimant who "had thrown both of her sons into prison," and by this and other arts led her to swear that the claimant was a bastard.

If all this be true, Mr. Thomas Blakeney with his story of the letter from his wife announcing that Mrs. Weedon declared the claimant to be Joan Landy's brat is a deeply perjured attorney.

But Mr. Mackercher, a sanguine man, may have been imposed upon by Edward Weedon. It is possible to believe Mr. Mackercher when he swore that he understood Sarah Weedon to be a material witness on the claimant's side. It is not impossible that Edward Weedon, who hung about Dublin without occupation, told Mr. Mackercher that his mother, Sarah, was on the side of the claimant, and hoped to bring her round to that party. The judges however, did not take the view that in the simplicity of Mr. Mackercher he was the confiding victim of Edward Weedon.

On 4th February, 1745, the claimant's counsel moved for a postponement of the trial. It was postponed to 7th February, and then the Solicitor-General, for the claimant, announced that Mr. Mackercher and several most material witnesses, were storm-stayed at Holyhead, as also was Mr. Goostry, having left London for Holyhead on 17th January. But John Campbell, who sailed from Parkgate for Dublin on 30th January, after waiting eight days for a wind, swore that he heard nothing at Parkgate or at Holyhead about Mr. Mackercher and his company. It would not take them seventeen days to reach Holyhead from London, and, once at Holyhead, they could, like Campbell, reach Dublin by 4th February. But can we believe Campbell?

The three judges decided that the trial must go on and

the defendant agreed that an examination of Goostry, in writing, might be read, not subject to cross-examination. On 8th February, very early, the trial began, the jury being gentlemen of landed estate. There were eighty witnesses for Mary Heath, eighty-six for her prosecutors. The Solicitor-General vainly protested that many of his principal witnesses and Mr. Mackercher were absent. The Court did not conceal its opinion that Mr. Mackercher could have been present if he pleased.

The first witness was Mrs. Cole. She now proved herself to have been nine or ten years wrong in her estimate of her age at the trial of 1743, and in some details she varied from her former account of the affair of the saucers. She was examined for two hours and a half, and it does not appear to us that her evidence was materially damaged. She was supported, we saw already, as to the strongest appearances of pregnancy in Lady Altham between November and January, 1714-1715, by Dr. Jemmat, President of the College of Physicians, and Mrs. Moncrieffe, a midwife of great experience. They could not prove that Lady Altham was actually with child, but they proved that when Mary Heath said that her ladyship never showed any apparent symptoms of pregnancy Mary went too far. The rural witnesses were extremely vague and cautious—Eleanor Murphy and Mary Doyle, as we have said before, were discrepant about dates.

Business really began in earnest when the Solicitor-General "with some satisfaction" called Mr. Higginson; "he is a person of some reputation." Mr. Higginson was the collector of rents in 1715 for Lord Anglesea. He swore, it will be remembered, that in mid-April, 1715, while Lord Altham was at the trial of Jacobites in Wexford, Lady Altham was at Dunmaine, near her confinement. Higginson saw her, spoke with her, and drank a toast to her happy delivery.

The examination of Higginson must be quoted in full so that the reader, if he can understand the report, may form his own estimate of the value of the testimony.[1]

The point is that Higginson's notebook shows him receiving rents at Peppard's Castle on 18th April, 1715, whereas he swore he was at Dunmaine, sixteen miles away, on that day. He explained the discrepancy by his habit of pre-dating rents

[1] See Appendix, pages 348 and 354.

on the days when they ought to be received and, when absent from home, leaving signed receipts. But he received a bill for £30 from Mr. Giffard on 5th April, and swore in the previous trial that he received it on Easter Monday, 18th April, 1715, the day before he went to Dunmaine and saw Lady Altham. The value of his explanation of this discrepancy must be estimated by the reader.

Lord Chief Justice Marlay in summing up said that Higginson "would have been a material evidence if his memory did not fail him." Here the pamphleteer observes that the Lord Chief Justice should have given his reasons for his remark, for all who heard Mr. Higginson in both trials "are satisfied he has a surprising good memory." The pamphleteer defers further remark till Mary Heath's trial appears in print, and, as it is being edited by an Annesley, he "despairs of ever seeing it appear genuine." The Lord Chief Justice, after Higginson and another witness had been examined, cried, "If you have any person of undoubted credit, in the name of God produce him!" A cloud of witnesses of no particular credit was therefore scattered, and they came to Joan Laffan.

The Recorder, for Mary Heath, told the Court that he would prove that the Althams never went to Mrs. Vice's lodgings in the end of 1713. He would show what servants, including Mrs. Setwright, the housekeeper; Mary Waters, a chambermaid; and Betty Doyle, a laundrymaid, Lady Altham sent down before her from Briscoe's to Dunmaine. He would prove that in Easter week 1715, Lady Altham was not lying in, but was at Wexford Assizes, returning to Dunmaine on 22nd April, and was in Dublin at the King's birthday, 28th May. He would also disprove the god-parentage of the three alleged godparents. Mrs. Pigot, for example, was never at Wexford County between November, 1714, and the end of 1716. Mr. Cliffe at the date of the alleged christening was in Dublin. Mr. Colclough was on bad terms with Lord Altham, and was a Catholic. All this, if proved, meant that the claimant's witnesses were perjured.

The first witness was Mrs. Vice, daughter of Mrs. Vice who kept lodgings. In 1713 she was very young, only eleven. (It incidentally appears that the claimant was in Court during this examination.) Mrs. Vice knew that the Althams lodged with her mother about May, 1715; did not believe that they

were there in 1713; did not know whether they were there in October, 1714, to January, 1715, the period of Dr. Jemmat's and Mrs. Moncrieffe's visits to Lady Altham at Mrs. Vice's. At the first trial Mrs. Vice did not appear, "because I could not recollect any particular passages at that time." Her memory was later stimulated by the defendant's friends, who asked her about the fireworks at the birthday of George I., 28th May, 1715.

Mrs. Setwright swore to having been hired by Lady Altham as housekeeper at Captain Briscoe's four or five days before Christmas, 1713. She arrived at Dunmaine the day before Christmas Eve with Mary Waters and Betty Doyle. Rolph was butler. She remembered nothing about the saucers and their breaking, but was sure that Lady Altham had no miscarriage. She herself had a child in June, 1714, in a house within a field's length from Dunmaine. She could not remember Lady Altham's absence from Dunmaine in November-December, 1714. She never told the Rev. Mr. Nesbit, of St. Catherine's, that "if Mrs. Heath swore that my lady never had a child she was a damned bitch." The Court observed that the question was not "Had Lady Altham ever a child?" but "Had she a child while Mary Heath was with her?"

The next witness was "an ancient man" in bad health, the Rev. Mr. Hervey, of County Wexford. He was in Court at the Wexford Assizes of 16th and 22nd April, 1715, and was a particular friend of the judge, Lord Chief Justice Forster, whose brother had been his tutor at college. Here, at least, we have an educated witness. He saw Lord Altham both at his lodgings and in Court. There were several ladies in Court.[1]

Whatever the value of this evidence may be in point of law, in point of history it seems, if uncontradicted, to leave no doubt that Mrs. Giffard, as she swore, was at these assizes, and was accompanied by a lady of fashion, about whom Mr. Hervey was "morally certain" that her name was Lady Altham, and that she was a compromising companion for his sister-in-law, Mrs. Giffard.

Edward Bourk, who had been postilion to Lord Altham, corroborated Mrs. Setwright on many points, and entirely

[1] See Appendix, pages 354-357.

corroborated Mr. Hervey. He was among the party who beat the informer or King's evidence Sinclare; he never saw a child at Dunmaine House; he waited on Lady Altham at Ross after the separation; she was very fond of children, but had none of her own while he was with her. His memory on points which he was not brought to swear to was incredibly weak. He could not remember whether or not after leaving Lord Altham's service in 1715 he returned to it again!

Did anybody offer you money for swearing in this cause?—Yes, Mr. Mackercher did.

What did he offer you?—He offered me £300 for swearing.

This came out under cross-examination. "When the witness said this, there was a loud huzza in Court."

Apparently the claimant's cause was now unpopular.

The money, in fact, was offered by Paul Keating, whom we have met offering money to the boy Eggleston as from Lord Anglesea.[1] This witness swore that he had met Mr. Macherchor in 1743, apparently; but Mr. Mackercher offered no money, merely saying, "I hope, my friend, you will do nothing against Mr. Annesley's interest." Thus we do not certainly know that Mackercher employed Keating to offer £300. Keating may have been acting to discredit Mackercher in case he swore for the claimant; or Bourk might have been bought by the defendant's party. In any case, take him for what he is worth, he fully corroborated Mr. Hervey as to the Wexford Assizes. We must now refer, on the same point, to Mrs. Sarah Sweeny, at whose house, as Mrs. Giffard swore in the previous trial, the Altham's lodged, at Wexford, in April, 1715[2]

Mrs. Giffard next swore to the same effect as in the former trial. She had, at that time, forgotten that her married sister went with her to the assizes. She still swore that Mr. Colclough sat by Lady Altham in Court, and believed that he handed her in and out of Court; "to the best of my knowledge he did."

On this point Mr. Colclough was adamant. He did no such thing.

We have from Mrs. Sweeny corroboration of Mr. Hervey's evidence, in which the only weakness is that he did not know

[1] See Keating's evidence, *State Trials*, xvii. 1124-1125.
[2] See Appendix, pages 357-360.

Lady Altham personally, and learned her identity, when he saw her in Court, in 1715, from the public voice. Mrs. Sweeny was unshaken and very cool; we have nothing against her except that, in 1743, she remembered nothing of the matter, "but after, when I considered about it, I found it out." Her sister, Mrs. Giffard, may have assisted her memory, but she must have tried to do that vainly before the first trial. Mr. Hervey had been in Lord Altham's rooms at Mrs. Sweeny's.

The Court, very impatient, did not even think it necessary to produce Mrs. Giffard's sister, Mrs. Crumpton by a second marriage, Mrs. Roe in 1715. She therefore was not called. Why she and Mr. Hervey were not called, or did not appear, in the earlier trial is unknown. But, till we can disable Mr. Hervey's evidence, it is manifest that Lady Altham's presence at the Wexford Assizes in the very week when Higginson saw her, great with child, at Dunmaine, in April, 1715, seems to settle the historical question, "James Annesley" was not the son of Lord and Lady Altham. Yet, later, we produce affidavits which flatly contradict Mr. Hervey!

If the oath of Sarah Weedon, mother of John and Edward Weedon, be of any avail, assurance is redoubled. But she did not remember the saucers, did not remember that Lady Altham had any illness, despite the fortnight's attendance of Sutton on her in 1714. She had known Joan Landy's child from his birth, and at Carrickduff with Lord Altham. During Sarah's evidence the Court said, "Mr. Mackercher has made an affidavit which I wish for his sake he had n[illegible]."

Under cross-examination Sarah only opined that she was still in Dunmaine House when the Briscoes left it in 1714. Not much was to be got out of Sarah for the claimant, and the Court, in milder mood, said that, as to Mr. Mackercher's affidavit about Sarah as a witness for his case, "Mr. Mackercher was certainly misinformed."

They now came to the question of the alleged god-parents. First, as to Mr. Cliffe, they were to prove that he was not in Dunmaine at a christening in May, 1715. But Mr. Cliffe, the son, had left the Court, as the hour was late, and they tried to prove an *alibi* for the god-mother, Mrs. Pigot. We give the evidence textually.[1]

[1] See Appendix, pages 360-364.

The Annesley Case.

The evidence in the Appendix bears that Mr. Caesar Colclough was with the broken-legged Mr. Pigot and his wife, the alleged god-mother of the claimant, in the spring of 1715; and it had been already sworn that Mrs. Pigot did not return to county Wexford in that year.

Against all this, and against the evidence about Wexford Assizes, Mr. Caesar Colclough bore testimony.[1]

Mr. Colclough seems to dispose of the Walsh evidence in the Appendix, but Lord Chief Justice Marlay preferred to Mr. Colclough's the testimony of Penelope Halpen (see Appendix), "who, if she swears the truth, cannot be mistaken."

Somebody was mistaken! If Mr. Colclough were right, Walsh was not a servant in Mrs. Pigot's family in April, 1715. If Penelope were right, Walsh, whom she calls Wallace, was in Mrs. Pigot's family, and with her contemplated the eclipse of 22nd April, 1715. As to the absence of Mr. Cliffe, alleged godfather of the claimant, from Wexford and Dunmaine, at the time of the alleged christening of the claimant in May, 1715, we must quote in the Appendix the whole evidence of Mr. Cliffe's son, John Cliffe.[2]

It is clear that there is no proof of Mr. Cliffe's presence in Dublin between 14th May and 31st May, 1715. Thus there was time for Mr. Cliffe to be at a christening at Dunmaine in that period. Complete proof of an *alibi* for the "gossips," the god-parents, as regards the christening was not produced.

Finally, as to Lady Altham's presence at or absence from the Wexford Assizes of 16th-22nd April, 1715, Mr. Masterson, one of the gentlemen acquitted of Jacobite practices, was produced for the claimant. We give in the Appendix his evidence.[3]

The Court sat continuously for twenty-two hours, "without refreshment." The temper of the Court was, pardonably, as short as the sitting was long. Lord Chief Justice Marlay told the jury that the evidence against the accused, Mary Heath, "ought to be so full, clear, and consistent that there can be no room to doubt the truth of what is offered to prove." He said that records proved Mr. Cliffe to have been in Dublin at the alleged date of the christening (which does not seem certain), and he seemed to take Penelope Halpen's word against that of

[1] See Appendix, pages 364, 366. [2] See Appendix, pages 366, 367.
[3] See Appendix, pages 370, 371.

Introduction.

Mr. Colclough concerning Mrs. Pigot's presence in Tipperary during the alleged christening. No positive evidences for the claimant's birth, and Joan Laffan's evidence, "are in the least to be credited—if you believe the opposite evidence of Mrs. Setwright, Mrs. Giffard, and Sarah Weedon."

In twenty minutes the jury brought in the verdict for Mary Heath,—*Not Guilty*.

Two Unpublished Affidavits.

I now, to make all clear, produce two hitherto unpublished affidavits by gentlemen for the claimant.

Add. Ms. 33054 ff 266-270 (Affidavits upon the Petition of James Annesley Esq. to His Majesty).

Thomas Sandford of Sandford Court in Co Wexford Esq. aged 60 or thereabouts maketh oath. That in the year 1715, he was High Sheriff of the County of Kilkenny and that in the latter end of April in the year aforesaid, he the deponent accompanied the then going judge of Assize from the city of Kilkenny to the town of New Ross in the County of Wexford & there met one Mr Toplady who was then High Sheriff of the Co of Wexford; and this deponent saith that he there dined with the judges, said High Sheriff, Aaron Lambert of the Co of Wexford Esq, & several other gentlemen, at the house of William Napper as this deponent believes. And that during the said entertainment, one of the then judges asked some of the said company whether Lord Altham would be at Wexford Assizes, upon which some of the said company then replyed and told his Lordship that they believed not. For that Lady Altham was then ready, or near lying in, or words to that effect. And this deponent further saith that he continued for some time after in the said town of New Ross, & that a messenger came from Dunmain the seat of the Rt Hon. Arthur Lord Altham to the town of New Ross aforesd. giving an account that Lady Altham was delivered of a son. On which news there were great rejoicings & other demonstrations of joy in the said town of New Ross. And this deponent further saith that he was intimately acquainted with said Arthur Lord Altham and that in some short time after this Depont & Aaron Lambert aforesd. were in company with said Lord Altham & wished his Lordship joy on the birth of his son. And his lop. thanked this deponent & said Lambert, & was very much overjoyed on his having an heir, & seemed well pleased at this Deponent & Lambert's drinking the young peer's health. And this dept. further saith that the common repute of the inhabitants of the town of Ross aforesaid was that Lady Altham had been delivered of a son at Dunmain in the Co. of Wexford aforesaid signed.

Thomas Sandford.

Sworn 19th April 1746.

The Annesley Case.

(Add. Ms. 32564 f. 270.)

(Slightly abridged.)

Claudius Malbrank White of Rosebercon Co. Kilkenny, gentleman aged forty-six years came this day before me & made oath That he was well acquainted with Arthur late Lord Altham and Mary Lady Altham his wife, during their residence at Dunmain Co. Wexford, this deponent then living with his uncle Capt. Prichard Butler of New Ross in the said County, with whom and his aunt Mrs. Butler, Lord and Lady Altham had great intimacy. In the spring of 1715 it was publicly talked of in New Ross & neighbourhood that Lady Altham was with child, & she appeared to this deponent to be so. He particular remembers that he was sent by his uncle, some time in the latter end of the spring or the beginning of the summer in 1715 to Dunmain to see Mrs Butler who had been there for some time on a visit to Lady Altham who expected soon to be delivered. When he was there Mrs Butler desired him to tell his uncle that Lady Altham was safely delivered of a fine boy. And further deposeth that there were great rejoicings at Dunmain, & at the said Richard Butler's, & all about the town of New Ross among Lord Altham's tenants & friends on account of the said birth.

Some time after Mrs Butler having sent for a horse kept for her use, the deponent was sent to Dunmain to bring her home, & at Dunmain saw the said child of Lord & Lady Altham. And he afterwards heard of the christening of the child & that he was called James. The deponent was frequently sent by his Uncle Richard Butler & his wife to Dunmain to inquire after Ld. & ly. Altham & Mr. Annesley; & when he went there on such occasions frequently saw the child, sometimes with Lord & Lady Altham, who seemed extremely fond of him & treated him as their legitimate son; and at other times in the care of Mary Heath, my Lady's woman, & of his nurse, who both treated him with the greatest respect and fondness. That about a year & a half, or two years after the birth of the said child, Lord & Lady Altham having parted on account of some misunderstanding between them, Lady Altham came from Dunmain together with the said Mary Heath to the house of Richard Butler at New Ross where they continued for about 2 or 3 months. During which time the deponent often saw Lady Altham in tears, bewailing her misfortune and above all the loss of her child, complaining bitterly of her husband's barbarity in not suffering her to take the child with her. And deponent saw the child several times brought by stealth to Lady Altham while she continued at the house of Capt. Butler: and she always on those occasions appeared extremely tender & fond of him & cried over him; Lady Altham continued at New Ross about 4 or 5 years after her separation. And he further saith, that when the child was about 5 or 6 years old, Lord Altham frequently brought him to New Ross, & deponent used on such occasions to attend the child and walk with him about the town of New Ross, & into the neighbours' houses, in all which he was treated with great respect: and particularly remembers he several times went with said child to the house of Mr. William Napper of New Ross who always treated the child as the legitimate

son & apparent heir of Lord & Lady Altham. This depont. sometimes brought the child by stealth to Lady Altham at her lodgings in the house of one Mrs. Grubb for which her Ladyship was extremely thankful to this deponent, & rejoiced greatly at the sight of the child & treated him with the fondness of a tender mother. And further deposeth that this deponent. always understood that the youth was the legitimate son of Lord & Lady Altham, and he was generally esteemed & reputed to be so by all the people, the deponent. conversed with at New Ross & the neighbourhood thereof & he never heard anything to the contrary till of late. Further he deposeth that about the month of September 1744 this deponent. saw James Annesley esq. this petitioner at New Ross with several other gentlemen, and deponent. immediately knew him to be the very same person whom deponent. had so often seen when a youth of 5 or 6 years old at New Ross.

Signed Claudius Malbrank White.

Sworn before me at Tintern
in the County of Wexford the 13th
day of May 1746.
I know the Dept. Ambr: Oriell.

After perusing these affidavits I find myself quite unable to frame any hypothesis which will explain them if they are untrue. You cannot believe that the gentlemen are perjuring themselves with circumstance; they were not bribed. Mr. Mackercher, in 1746, was practically ruined. Smollett has assured us in *The Reproof*, line 120, note to "the melting Scot"—"Daniel Mackercher, a man of such primitive simplicity that he may be said to have exceeded the Scriptural injunction by not only parting with coat and cloak, but with his shirt also to relieve a brother in distress, James Annesley, Esq."

Had the deponents been men ready to hazard their immortal souls for a bribe, Mackercher had none to offer. The potentialities of bribery were on the side of the Annesley combination. Yet certain I am that they did not by money obtain the evidence of the Rev. Mr. Hervey.

Conclusion.

When we contemplate this lamentable case our judgment wavers. Take the gross improbability that Lady Altham should not inform her natural father, the Duke of Buckingham, of the birth of her child, and that, if she did, he should take no steps in the way of acknowledgment. Against this improbability remember that Lady Altham's character was terribly

smirched. The proceedings against her for divorce in 1709-1713, are only mentioned by Smollett, but a rumour ran that she had a child, not by her lord, in Holland, also that she had a child (or that child) "by one Segrave." "Neighbours of quality," ladies, did not call much on Lady Altham at Dunmaine. The Palliser affair, as Lord Altham was never legally attacked about it, was infragrant; her ladyship, we may guess, had long been a plague to the Duke of Buckingham, who, when she left her husband, made her only a pension of £20 yearly. In Dublin she could not take the child from her husband; she was poor, paralysed, deserted, and, some four months after her husband's death, the child was transported, by some was believed to be dead. She had not the money, even if she had the energy, to set research for him afoot.

These considerations tend to lighten the improbabilities.

Again, it does not appear that, if the child was legitimate, his father, desperately needy in 1725-1727, could have made much in the way of raising funds by asserting the legitimacy. The boy was too young, the father haggled with his brother about joining to raise money on reversions, now expecting success, now disappointed. According to Smollett, who is quite untrustworthy, Captain Annesley induced his brother to report that the child was dead while he was really immured at the house of the captain's led man, Cavanagh, the dancing master. But no such matter appears in the evidence as to this Cavanagh.[1] But it is not impossible that the besotted Lord Altham in his last days went on wavering till death took him intestate.

As to the infamies of his brother, the defendant, we have seen that, in such a character as his was, they do not raise a strong presumption that he knew his nephew to be legitimate. He acted as if he believed in it, but it was his nature to take the most wicked, cruel, and foolish course that was open to him.

It is probable, in the writer's opinion, that Mrs. Cole did not perjure herself about the miscarriage of spring, 1714, and it is probable that Mary Heath was carried too far by her zeal and her desire to deny everything, including Lady Altham's appearance of approaching maternity from September, 1714,

[1] See pages 131-136.

to January, 1715. It is almost inconceivable that Mrs. Cole was bribed to invent and swear to a statement which was only material as affecting, on a single point, the veracity of Mary Heath. It is almost impossible to suppose that the evidence of Seneschal Turner for the claimant was perjured, despite his bad memory for dates, and it is equally difficult to suppose that the evidence of Mr. Thomas Palliser for the defendant was perjured.

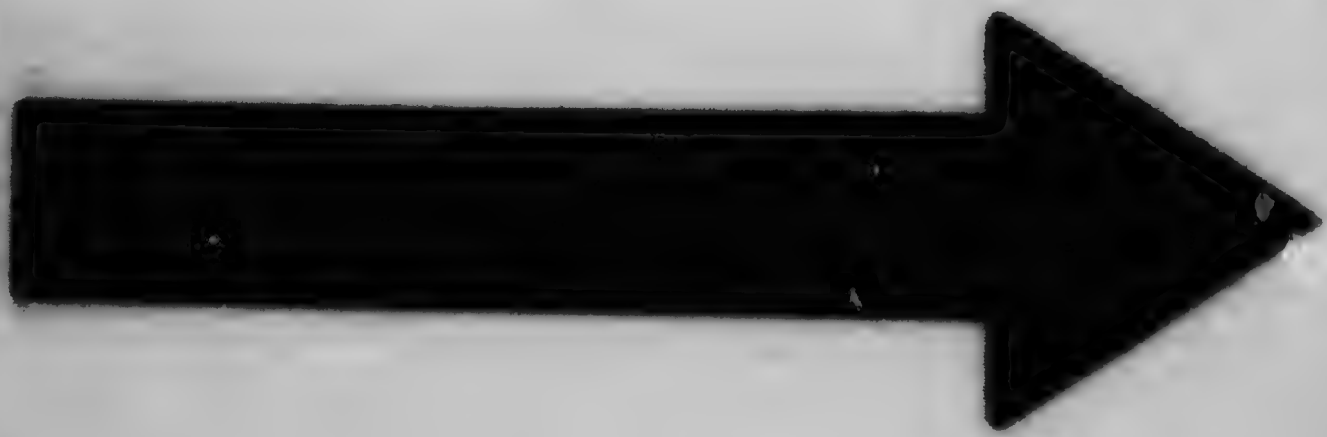
If one were obliged to stake one's all on a decision one might give it for the defendant on the strength of the evidence of the Rev. Mr. Hervey as to Lady Altham's presence at the Wexford Assizes in April, 1715.

On the other hand, Major Fitzgerald's evidence admits of no explanation. Granting that Lord Altham merely played a practical joke, we can find no new-born child within his reach. Joan Landy's child was far too old, and the only other conceivable infant born near Dunmaine House was Mrs. Setwright's. As it saw the light in June, 1715, according to its mother, it was not available for the purpose of the joke either in April, 1715, or in September of the same year,[1] the major's preferred date. The fact that a new-born child was presented to him at Dunmaine was proved by his recognition of Mary Doyle.

Every reader who is interested in judicial puzzles will study the report of the trial of 1743 presented in this volume, and will go on to attack the other trials as given in *State Trials*, carrying with him the knowledge that all these records are, in places, untrustworthy. He will then, if he can, make up his mind as to whether the claimant was or was not the son of Lord and Lady Altham, or, at all events, of Lady Altham living under her husband's roof. There is no suggestion in the records that while at Dunmaine she had any lover before the birth of her child in April-May, 1715, if a child at that date she had.

The writer began to study the problem with what he thought an almost invincible prejudice against the cause of the claimant and against the sincerity of Mr. Mackercher. The claimant was too romantic; Mr. Mackercher, as presented by Mr. Smollett, was too Smollettian. These two prejudices were, to

[1] *State Trials*, xviii. 147.



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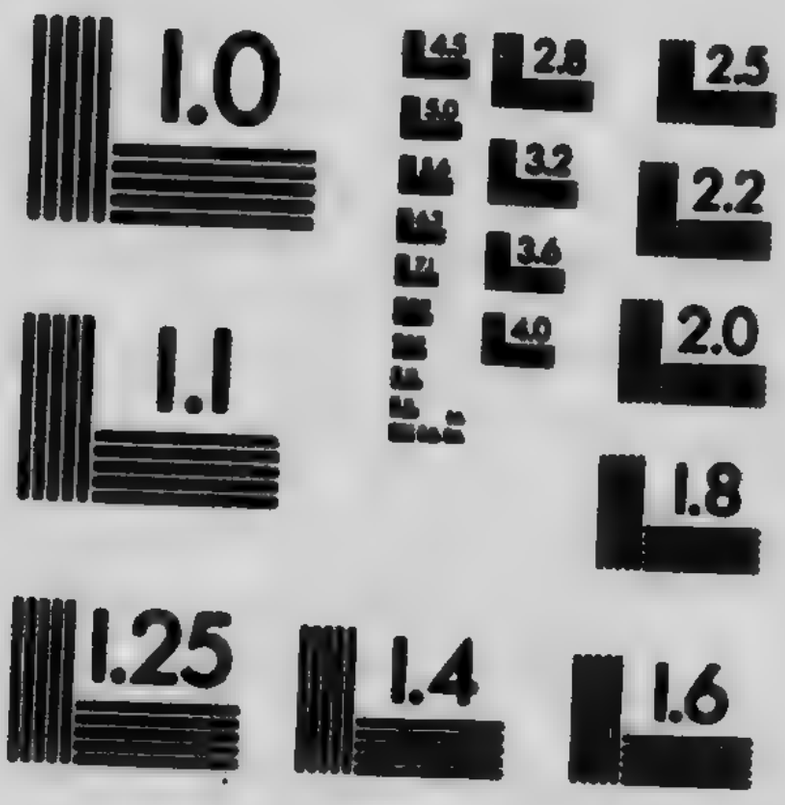

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a great extent, dissipated by a minute study of the case. It became apparent, by the medical evidence in the trial of Mary Heath, that Mary Heath was not consistently telling the truth. Certainly, on that medical evidence Lady Altham in the last months of 1714 did exhibit signs of pregnancy; whether they were fallacious (as happens occasionally) or not, these symptoms were exhibited. Mary denied that there were any such symptoms; she so far perjured herself.

It became certain, and definitely certain on the discovery of the affidavits of Mr. Sandford and Mr. Malbrank White, that in the spring or earliest summer of 1715 Lord Altham publicly announced the birth of a child to himself and Lady Altham. It followed that all the people of Dunmaine, and especially Mary Heath, who denied that there was ever any such report, were in error, whether wittingly or unwittingly. No known motive could explain the evidence, if false, of Major Fitzgerald, Mr. Sandford, and Mr. Malbrank White. No theory that Lord Altham was attempting, in 1715, to introduce a "warming-pan Pretender," a supposititious heir, could hold water, especially if the witnesses of the defendant were to be credited, and if they were not to be credited the defendant had no case. If any such attempt were made by Lord Altham, the witnesses for the defendant should have said as much, but they denied everything, every appearance of pregnancy in Lady Altham, every report of the birth of a child. Now, there was appearance of pregnancy in Lady Altham; there was Lord Altham's often-repeated assertion that she had a child; there was the unshaken statement of Lutwich that he saw and made shoes for the child after the separation, and there is the affidavit of Mr. Malbrank White, who, however, was not cross-examined.

If suborned perjury there were, it is clear that the potentialities of subornation and the weight of influence of every kind were all on the side of the defendant, the Earl of Anglesea, and the Annesley confederacy. In 1746, when Mr. Sandford and Mr. Malbrank White swore to their affidavits, Mr. Mackercher's pecuniary means were exhausted. Reflection on all these circumstances leaves me, for one, destitute of any fixed opinion.

Introduction.

The later fortunes of the claimant are briefly narrated thus: James Annesley, Esq., died 5th January, 1760. He was twice married; first, to a daughter of Mr. Chester, at Staines Bridge, in Middlesex, by whom he had one son and two daughters. The son, James Annesley, Esq., died November, 1763, S.P., and the eldest daughter is married to Charles Wheeler, Esq., son of the late Captain Wheeler, in the Guinea trade. Secondly, Mr. Annesley married a daughter of Sir Thomas l'Anson of Bounds, near Tunbridge, in Kent, gentleman-porter of the Tower, by whom he had a daughter and a son, who are both dead; the son, aged about seven years, died about the beginning of 1764, and the daughter, aged about twelve, died in May, 1765.

Leading Dates in the Annesley Case.

1706—21st July.	Marriage of Lord and Lady Altham.
1709—	Lord Altham goes to Ireland, leaving his wife in England.
1713—November.	Reconciliation of Lady Altham and her husband.
December.	Lord and Lady Altham take up house at Dunmaine.
1714—March-April.	Birth of Joan Landy's child.
April-May.	Alleged first miscarriage of Lady Altham at Dunmaine.
June-July.	Alleged second miscarriage at Mrs. Vice's lodgings.
1st August.	Death of Queen Anne.
November.	Alleged appearance at Mrs. Vice's of Lady Altham's third pregnancy.
1715—16/22 April.	Wexford Assizes, at which Lady Altham is alleged by defendant's witnesses to have attended.
22nd April.	Eclipse of the sun.
April-May.	Alleged birth of the claimant, James Annesley, at Dunmaine; the child sent to be nursed by Joan Landy the following month.
May.	Alleged christening of the child at Dunmaine.
September.	According to Major Fitzgerald he is shown the child by Lord Altham at Dunmaine the day after its birth.
	Joan Laffan engaged as dry-nurse for the child in the autumn.
1716—February.	Quarrel between Lord and Lady Altham regarding the Palliser incident; Lady Altham leaves Dunmaine.
1718—	Lord Altham leaves Dunmaine with the boy to live at Kinnea.

The Annesley Case.

1722—February.	The boy turned out of Lord Altham's house in Dublin by his mistress, Miss Gregory.
1724—Aug.-Sept.	Lady Altham goes to England.
1727—16th Nov.	Death of Lord Altham.
1728—30th April.	The boy alleged to have been kidnapped by his uncle, Lord Anglesea, and shipped to America to be sold as a slave.
1729—October.	Death of Lady Altham.
1741—12th Feb.	Claimant reported to be on Admiral Vernon's ship *Falmouth*.
Sept.-Oct.	Claimant returns to England.
1742—1st May.	Claimant accidentally shoots Thomas Egglestone at Staines.
15th July.	Claimant tried at Old Bailey for murder, and acquitted.
1743—16th Sept.	Lord Anglesea and others assault the claimant and his supporters at Curragh Races.
11/25th Nov.	Trial for recovery of the estates before the Court of Exchequer, Dublin; verdict for the claimant.
1744—3rd August.	Lord Anglesea and others tried and convicted at Athy, in Kildare, for an assault upon the claimant and his supporters at Curragh Races.
1745—8th Feb.	Trial of Mary Heath for perjury before the Court of King's Bench, Dublin; verdict of acquittal.

THE
TRIAL IN EJECTMENT

BETWEEN

CAMPBELL CRAIG, Lessee of JAMES ANNESLEY, Esq.,—
Plaintiff;

AND

The Right Honourable RICHARD, EARL OF ANGLESEA,—
Defendant.

Judges—

Lord Chief Baron BOWES.
The Hon. Mr. Baron MOUNTENEY.
The Hon. Mr. Baron DAWSON.

Counsel for the Plaintiff—

ROBERT MARSHALL, Esq., Second Serjeant.
PHILIP TISDALL, Esq., Third Serjeant.
PHILIP WALSH, Esq., one of His Majesty's Council at Law.

WILLIAM HARWARD, Esq.
JOSEPH ROBBINS, Esq.
AMBROSE HARDING, Esq.
HARRY SMITH, Esq.
JOHN FITZGIBBON, Esq.

JOHN FORBES, Esq.
THOMAS MORGAN, Esq.
JONATHAN BELCHER, Esq.
ROBERT FITZGERALD, Esq.
THOMAS LILL, Esq.

Counsel for the Defendant—

ANTHONY MALONE, Esq., Prime Serjeant.
ST. GEORGE CAULFIELD, Esq., Attorney-General.
WARDEN FLOOD, Esq., Solicitor-General.
EATON STANNARD, Esq., Recorder of Dublin.
JOHN SMITH, Esq., One of His Majesty's Council at Law.
ANTHONY MARLAY, Esq., One of His Majesty's Council at Law.

RICHARD MALONE, Esq.
PETER DALY, Esq.
IGNATIUS HUSSEY, Esq.
SIMON BRADSTREET, Esq.

THOMAS LETHUNT, Esq.
FRANCIS BLAKE, Esq.
EDWARD LEE, Esq.
JAMES MADDOX, Esq.

THOMAS HOUGHTON, Esq.

The Annesley Case.

Friday, 11th November, 1743.

The Court being sat, the Jury were called over and answered to their names, of whom the following twelve were sworn to try the issue joined between the parties:—

Sir Thomas Taylor, Bart.
Rt. Hon. William Graham, Esq.
Richard Wesley, Esq.
Hercules Langford Rowley, Esq.
Richard Gorges, Esq.
John Preston, Esq.
Nathaniel Preston, Esq.
Charles Hamilton, Esq.
Clotworthy Wade, Esq.
Thomas Shaw, Esq.
Gorges Lowther, Esq.
Joseph Asbe, Esq.

The Declaration.

Campbell Craig, Lessee of James Annesley, Esq.,—*Plaintiff;*
The Right Honourable Richard Earl of Anglesea,—*Defendant.*
Michaelmas Term, in the 16th and 17th years of George the Second, in the Exchequer.

County of Meath, to wit, } The Plaintiff declares that James Annesley, Esq., on the First Day of May, 1742, at Trim, in the County of Meath, demised to the said Campbell Craig 30 messuages, 30 tofts, 50 cottages, 2 mills, 50 gardens, 800 acres of arable land, 300 acres of meadow, 600 acres of pasture, 50 acres of furze, and heathy ground, 50 acres of moory land, with the appurtenances, in Great Stramine, otherwise Stameen, Little Stramine, otherwise Stameen, Little Donacarney, Shallon, Kilcarvan, otherwise Kilsharvan, Cruffey, Annagor, otherwise Annager, and Little Gaffney, Scituate, lying, and being in the County of Meath aforesaid. All which said premisses were formerly the estate of the Right Honourable James Earl of Anglesea, deceased, and lately the estate of the Right Honourable Arthur Earl of Anglesea, also deceased. To hold the said demised premises with the appurtenances to the said Campbell Craig, his executors, administrators, and assigns, from the 1st day of May aforesaid, for the term of twenty-one

years from thence next ensuing fully to be compleated and ended.

The plaintiff also declares upon two other several demises made by his said lessor of the same premises, that is to say, one by the name of the Right Honourable James Earl of Anglesea, and the other by the name of the Honourable James Annesley, only son and heir of Arthur, late Baron of Altham, deceased, otherwise the Right Honourable James Baron Altham of Altham. By virtue of which said several demises, the said Campbell Craig, on the 2nd day of May aforesaid, in the year of our Lord aforesaid, entered and was thereof possessed, until the aforesaid Richard Earl of Anglesea afterwards, on the 3rd day of May aforesaid, in the year of our Lord aforesaid, with force and arms and so forth, entered into the said demised premises with the appurtenances, and ejected, expelled, and removed him the said Craig from his said farm (his said term not being then or since determined), and otherwise did unto him, against the peace of our Lord the King that now is, and to the damage of the said Craig One hundred pounds sterl.

To this declaration the defender pleaded the general issue, not guilty.

Evidence for the Plaintiff.

Mr. Serjeant Marshall opened for the plaintiff.

D. Briscoe

Mrs. Dorothy Briscoe, examined—I first knew Lady Altham in October, 1713, when she came over to Ireland and lodged at my father's house in Bride Street, Dublin. My father's name was Temple Briscoe. I lived in the house with Lady Altham for about six weeks, and was every day in her company. I believe she was not then with child, she having then come to Ireland to be reconciled to her husband, who had turned her off. After Lady Altham left my father's house she went to Mrs. Vice's house, in Temple Bar, near the Slip. I was with Lady Altham there after her husband came to Dublin and was reconciled to her.

Cross-examined—I knew they were reconciled at my father's house, because my father having invited Lord Altham to supper, they spoke about Lady Altham, and on such discourse he then desired to see his wife. Whereupon my mother brought Lady Altham downstairs. Lord Altham kissed his wife, and they supped together, I also supping with them. After supper Lord and Lady Altham went to bed together. I saw them in bed. Afterwards they went to Mrs. Vice's house, and stayed there some few days. Then they went together to Dunmaine, and soon afterwards they invited my father and mother down there. I saw Lady Altham in Dublin in the latter end of the summer of 1714. Lord Altham came with her, and they lodged at Mrs. Vice's house. I understood they cohabited there, as I often saw them together. I knew nothing as to Lady Altham being pregnant there or anywhere else save from what I heard my mother say.

The Attorney-General objected to the witness giving an account of what she had heard her mother say.

The objection was allowed.

H. Cole

Mrs. Henrietta Cole, examined—I knew the late Lord Altham and his lady in 1713 by a reconciliation being made between them at the house of my father, Temple Briscoe. Some time about Christmas they lodged for four or five days

at my father's house, and then they went to lodge at Mrs. E. Gale
Vice's, at Temple Bar. I observed them to live comfortably.
I saw Lady Altham at Temple Bar. She and her husband
went to Dunmaine about Christmas. My mother and I, being
invited to Dunmaine, went there about the spring of 1714.
While I was there Lady Altham was with child, but she
received a fright and miscarried. The fright was occasioned
by my lord's being in a great rage at some saucers being
brought to the table contrary to his express orders, upon
which he threw the saucers into the chimney just by my lady,
who was seated at the upper end of the table. I lay with my
mother. During the night of that day my mother was called
up by Mary Heath, her ladyship's woman, who told her that
Lady Altham was exceedingly ill, and desired her to come.
Lady Altham miscarried that night. I saw the abortion in a
basin next morning. Mary Heath must also have seen it,
because she was present. My mother said that, if Lady
Altham was so easily frightened, she never would have a child.
Lord Altham said it was her own fault. My mother is dead.
I saw Lady Altham in Dublin, I think, the winter after, but
I did not know about her pregnancy then.

Cross-examined—I am about forty-five years old. I do not remember who were the servants who were at Dunmaine.

Being so young, how did you know it to be an abortion?—I heard it from my mother.

What kind of saucers were thrown?—They were china saucers, with odd kinds of figures on them. Lord Altham had them before he was married, and ordered them not to be brought to table. My mother and I were at table, and I sat on her ladyship's right hand. The butler's name was Rolph. To the best of my knowledge, he was present, and brought the saucers in for the second course.

What words did Lord Altham use when he threw the saucers?—He said, "These saucers, you know, I ordered never to be brought upon the table," and thereupon Lady Altham fell into a most violent fit of tears. I believe that she went to bed at her usual time. I do not remember any physicians or midwife being called in. Lord Altham afterwards said to my mother that it was his lady's own fault that she had miscarried.

Alice Bates, examined—I knew Lady Altham at Captain Briscoe's house in Bride Street in 1713, and at her lodging at Mrs. Vice's, in Essex Street, in November, 1714. She was then with child. I went to pay her a visit, and when I came to the dining-room door Lord Altham met me, and slapt me on the back and said, "By God, Ally, Moll's with child." I also knew her to be with child by seeing her pretty big. I

Alice Bates

Alice Bates wished her joy on being with child, and she thanked me in presence of his lordship. I saw her two or three times after that before she went out of town, about Christmas, 1714, and I spoke to her of it. She always owned it. I saw her growing bigger, and laid my hand upon her, but I did not perceive any motion, because my hand was outside her clothes. Her lady's woman, Mrs. Heath, was about her then, and certainly knew she was with child, but I never spoke to her about it except in a joking way. I was married at that time, my husband being a revenue officer, and now a schoolmaster.

Cross-examined—I cannot tell what became of that pregnancy. I waited on Mrs. Briscoe, and I attended there sometimes on Lady Altham.

Of what size was Lady Altham, and of what colour was her hair?—She was a middle-sized woman, and her hair was very dark brown.

Did Mrs. Briscoe go to Dunmaine?—It was in November, 1714, that I saw my lady with child, and it was in the May before that Mrs. Briscoe went down along with one of her daughters, Harriet.

How old was that daughter—was she marriageable? She was, and as big as she is now. The first time I saw Lady Altham with child the days were short and the weather was dirty. I saw her about three times at my master's and at her lodgings.

Was not Lady Altham very conversant in Briscoe's family?—Yes.

Were they not very glad to hear she was with child?—Yes.

Did you ever hear it mentioned and talked of in the family?—Yes. Captain Briscoe had five daughters. I could not tell which of them were at home when Mrs. Briscoe went to Dunmaine. Miss Harriett (Mrs. Cole) was in the country with Lady Altham. I heard my mistress and Mrs. Cole say that Lady Altham miscarried in Dunmaine. I also heard Mrs. Cole say so.

Catharine MacCormick

Catharine MacCormick, examined—I knew Lord and Lady Altham when he lodged at Mrs. Vice's in Essex Street, where I was servant about the end of summer in the year before Queen Anne died. My lord was there some time before one Bryan MacCormack, his footman, came for my lord's slippers, nightcap, and nightgown, and said he believed his lordship would lie at Captain Briscoe's house. There was a rumour at first that my lord was to be married to one of Captain Briscoe's daughters, but the next morning the footman came and told me that the servants told him that Lady Altham had come to

town. They came next morning to lodge with my mistress, and stayed that winter. They went to Dunmaine from my mistress's house, and about the end of May or beginning of June following they came from the country to Mrs. Vice's the second time. There was some talk in the family at Mrs. Vice's of a miscarriage at Dunmaine. One evening in August, my lord having words with my lady's woman, Mrs. Heath, made a great noise, upon which my lady, who was in bed, was frightened and screamed out. Next morning they said that my lady had miscarried, or was going to miscarry, whereupon my lord sent one of the servants for Mrs. Lucas, a midwife in the neighbourhood. I desired the man not to go, but to say he went. When he came back Lord Altham was so displeased that he threw up the dining-room window and called Mrs. Lucas several times. Another midwife, Mrs. Lawler, was sent for next morning. Lady Altham miscarried about six weeks after her coming to Mrs. Vice's. I heard it from Mrs. Heath, her woman, who said that her ladyship would be as fruitful a woman as any, but for her ill-usage. About two months after I heard that Lady Altham was again with child. I was told so by Mrs. Heath, who mentioned to me, with a great deal of pleasure, that she had good news, that my lady was certainly with child again. That would be in October or November. There were great changes for the better in my lord upon my lady's being with child again. He used to come home earlier than usual, and a pair of low-heeled slippers was bought for my lady for fear of her stumbling and thereby occasioning a miscarriage. On one occasion, observing my lady pretty big, I wished her much joy of her little big belly. His lordship laughed, and remarked that that was an Irish bull, and he mentioned to me that I might make a good nurse. This would be just before Christmas of the year Queen Anne died. I remember that, because I was married ten days before Christmas. Lady Altham did not lace herself as usual, and I thought and believed her to be big—she had the walk of a woman big with child. Jellies and broths were made for her. Soon after my marriage I left the family, but my husband stayed there. To the best of my knowledge, my lady left the house about six weeks after my departure. What first made me believe that my lady was with child was the fact that she was not seeing company. She gave herself full ease and liberty in her nightgown.

Catherine MacDermot.

Cross-examined—The occasion of my lady's miscarriage at Mrs. Vice's was my lord's coming in one night in liquor, and some dispute happening between him and Mrs. Heath, my lady's woman; a stool was thrown, which made a noise and frightened my lady. Mrs. Heath said, "You have done a fine

Catherine Hardwicke

thing to make my lady miscarry." I am acquainted with one Joan Landy, my sister-in-law.

Did you ever see her after her marriage with your brother?—No, not until I received a summons from Mr. Annesley. I do not remember the names of Captain Briscoe's children, or when they visited Lady Altham. Mrs. Briscoe was an intimate acquaintance of Lady Altham.

In what manner do you get your livelihood?—By my honest industry. My employment is stamping or printing papers for rooms.

Had you any discourse with a Mrs. Shaw?—Yes, I papered a room for her. Having mentioned to Mrs. Shaw my living at Mrs. Vice's house, I was asked if I knew that Mr. Annesley was a son of Lord Altham. I said, if he was the son of Lady Altham, he must have been the child she was going with when she lived with my mistress, but, says I, "I will not take upon me to swear whether she was with child or not." By virtue of my oath I did not tell Mrs. Shaw that Lady Altham was not with child while I lived with Mrs. Vice.

D. Briscoe

Mrs. Dorothy Briscoe, recalled by defendant's counsel—I heard Lady Altham was with child and miscarried at Dunmaine. I cannot charge my memory if Lady Altham was a second time with child. My mother and sister came home from Dunmaine after about three months. Lord and Lady Altham came to Dublin after Queen Anne died. I do not remember her ladyship being with child. I had the smallpox when Queen Anne died, and my mother came to town upon my sickness. Lord Altham came from Dunmaine about August. I know the witness Alice Bates.

Did you ever hear from her that Lady Altham was with child?—Indeed, I can't tell, but I might, for she tells me a hundred things about my own family which I am an entire stranger to, and an honest, worthy woman she is as ever lived by bread.

H. Cole

Mrs. Henrietta Cole, recalled by defendant's counsel—I heard that after the miscarriage Lady Altham had a child. I know Alice Bates. I remember when she was a servant with my mother. I do not recollect her ever talking about Lady Altham being with child. After Lady Altham came to town in August I believe she visited at my father's house. My sister Dorothy then had the smallpox, and I was sent out of the house. Lady Altham did not come to town till two or three months after my mother came to town, and that was towards winter. My mother and I called at Burton Hall, and stayed there about six weeks. It was then the fruit season. I am sure I

was at Dunmaine in the m...n of May. The ... is no circum- M. Cole
stance whereby I could particularise the time of Lady Altham's coming to town. She might have been in town without my knowledge or without visiting me. Both Lord and Lady Altham might have been in town a month or six weeks before I saw them.

Charles MacCarthy, examined—I knew Lord Altham for at C. MacCarthy
least seven years. I first became acquainted with his lady when they lived at Mrs. Vice's in the year 1715 or 1716. I lived then in College Green, and Lord Altham had a coach-house and stables from me in Chequer Lane. I was out of the Kingdom when Queen Anne died on 1st August, 1714. I first was acquainted with Lady Altham about a year or a year and a half after Queen Anne died.

(This witness not speaking to the same time as the other witnesses, plaintiff's counsel declined to further examine him.)

Cross-examined—When I knew Lady Altham it was reported that she was with child. They were talking of going to Dunmaine, and my lord wished I had a room for my lady, because he was afraid of her travelling, as she was with child, but my house was full. Parliament was sitting when Lord Altham lodged at Mrs. Vice's.

Major Richard Fitzgerald, examined—I knew Lord Altham R. Fitzgerald
very intimately. In 1714 I lived at a place called Prospect Hall, in the county of Waterford. Lord Altham lived then at Dunmaine. I also knew Lady Altham. I was at Dunmaine in September, 1715.

Are you sure it was in September, 1715?—I am certain. I could not then see Lady Altham, because she was lying-in at that time. She sent word down to me that if she could see anybody she would see me.

What was the occasion of your going to Dunmaine?—I met Lord Altham at Ross, and he invited me to dine with him the next day. I desired to be excused, as I was to dine with some officers, but Lord Altham said that I must dine with him, and come to drink some groaning drink, for that his wife was in labour. I said that that was a reason I ought not to go, but he would not take an excuse. He sent me word the next day to Ross that his wife was brought to bed of a son. I went to Dunmaine, and dined there, and we had some discourse about the child. Lord Altham swore that I should see his son, and accordingly the nurse brought the child, and I kissed it, and gave half-a-guinea to the nurse. Some of the company toasted the heir-apparent to Lord Anglesea at dinner. I don't remember who the company were, but there was one

R. Fitzgerald

Captain Robert Phaire present. I left the country next day, and went to my own house at Prospect Hall. I never met or heard of Altham again till I heard of his death, nor did I ever see the child again. I have to-day seen the woman to whom I gave the half-guinea. I remember her well, because I noticed when I gave her the half-guinea that she was very handsome. I did not stay at Dunmaine that night; I went to Ross at nightfall, and I remember that I was attacked by some robbers on the road. I remember that Lord Altham was in high spirits at the thought of having a son and heir.

Cross-examined—Prospect Hall is about 28 miles from Dunmaine.

Can you remember the particular business that carried you to Ross at that time?—My uncle, Councillor Pigot, lived in the County of Wexford, and at his death he left a child of mine a legacy, which occasioned my going there. I cannot tell when Mr. Pigot died. Harvest was begun up and down before I left home for Ross.

John Turner

JOHN TURNER, examined—I knew Lord and Lady Altham for several years at Dunmaine. I was steward to Lord Anglesea, and visited Lord Altham. I believe I knew Lady Altham first in 1711. I was married on 29th December, 1714. My wife and I went to Dunmaine about Lent, and stayed about three weeks there. I observed that Lady Altham was big at the time we went there, and my wife told me she was with child. The following July Lady Altham told me that she had a son. About a year and a half afterwards I saw the boy at Dunmaine; he was about two years old then. I stayed two nights or thereabouts at Dunmaine, and I had the child in my arms. I saw Lady Altham leading the child across the parlour two or three times. I saw Lord Altham kiss the child, and I heard Lady Altham call him Jemmy. I don't know Mrs. Heath. I afterwards saw the child at Ross when he was about three years old, and at Kinnea, in the County of Kildare.

How was the child treated at Kinnea?—He was dressed as the son of a nobleman, and the servants called him master. He went by the name of Jemmy. I believe I saw him two or three times at Kinnea. The child could walk very well at Kinnea, and he used to be wheeled about in a little carriage by Lord Altham. Lord Altham still showed the same fondness to the child. Once, in 1722, when I was at a tavern in Dublin with Lord Altham, he said that he would send for his son so that I might see him, and the child accordingly was sent for. He was then about eight years old. Lord Altham said to me, "You were steward to Earl John and Earl Arthur, and you may be steward to this child here." I believe I saw the

child once afterwards in Dublin, but I did not know him— John Turner.
I was only told it was he. That was about two or three years after the meeting in the tavern. The child had no clothes, and was so much altered, that although the people of the tavern told me he was Lord Altham's son, I did not know how to believe it. Lord Altham lived for about four years after I saw the child in this condition. I never saw the child after Lord Altham's death.

Cross-examined—I do not know where Lord Altham was living when I saw the child in that poor condition, but I believe it was at Inchicore. I did not inquire where he was, nor about the child, having heard that the child born at Dunmaine was dead many years before. I was settled the year after my marriage near Camolin Deer Park. It was visible that Lady Altham was with child.

What sort of a woman was she?—She was a big-boned, lusty, and swarthy woman, and her hair was brown. My wife and I constantly ate at the table with Lord and Lady Altham. I do not know what neighbours visited at Lord Altham's, but I think I have seen Colonel Palliser there. I do not know one of the servants by name. I might know them then, but I do not now recollect them. I have seen Lady Altham's woman, but I do not know that her name was Heath. I saw Mary Heath, but I did not know her to be my lady's woman. I have heard the name of Rolph, but I could not say whether he was the butler or not. I do not remember the name of the servant who made my bed. I do not know the name of the cook or of the nurse.

Did you ever hear of the name of Joan, or Juggy Landy?—I never heard of her name at that time. I saw the child at Mrs. Butler's house at Ross. I knew who the child was, because I asked. I saw the same child at Carrickduff. I afterwards saw the child at Dublin, when he was ten or eleven years old, and in a miserable bad dress. I never saw Lady Altham but at Dunmaine, at Ross, and in Dublin after her parting with my lord. I never heard till within the last two or three years that Lord Altham had a bastard. Lord Altham died about 1728. I saw the boy in a ragged condition some time before Lord Altham died on the Upper Bran Quay in Dublin, and I heard little boys call him "my lord." A woman that sold some apples in the market told me he was Lord Altham's son. Lord Altham applied to me in 1717 or 1718 to speak to Lord Anglesea to help to maintain his son; and I did so. Earl Arthur gave me £50 for that purpose. I cannot tell whether he was of opinion that Lord Altham had a son. After the death of Lord Altham I heard my Lord Anglesea came into possession of the estate.

John Turner

How came it that you that knew that Lord Altham had a son did not disclose it that he might inherit?—I don't know. I never did tell anybody that he had a son. I did not know that Lord Altham had a son living at the time of his death. Being recommended by Mr. Cæsar Colclough to the present Earl of Anglesea, I frequently went to see him, and he used to entertain me with telling me how much he was perplexed by law suits. I asked him one day what had become of Jemmy, and he answered that he was dead.

D. Redmonds

Dennis Redmonds, examined—I knew Lord and Lady Altham. I was for three years servant to his lordship a little after he came to Dunmaine about thirty-three years ago. I knew that Lady Altham was with child, because I saw that she was big. It was the talk of all the servants. She was brought to bed at Dunmaine. I was sent by Mrs. Heath for the midwife, Mrs. Shiels, the day before her delivery, and I brought her from a house opposite the barracks in Ross. She stayed two days or thereabouts. The child was christened James when it was about three weeks old, by Lord Altham's chaplain, Mr. Lloyd. The godfathers were Councillor Cliffe and Mr. Anthony Colclough, and the godmother was Madam Pigot. The nurse who nursed the child was Joan Landy. I was told that she was preferred because she had the best milk. I never knew Lord Altham to have any other child. There was a bonfire made and other rejoicings for the birth of the child. There was great drinking and carousing, and some of them were found drunk in the ditches next morning. The child was nursed about a quarter of a mile from the house, in Joan Landy's house, which was upon my lord's land. Nobody lived in that house but the nurse's father and mother. Lord Altham and his lady often went there to see the child and to bring him to Dunmaine, and Lady Altham had a coach road made on purpose to go and see the child. The child, which was dressed like a nobleman's child, remained with the nurse about a year, and was then removed to Dunmaine, where Joan Laffan had charge of him. In the beginning of 1717 my lady went from Dunmaine on account of something between Mr. Thomas Pallizer and her. Lady Altham had the child in her arms and was kissing it as she was going away, and Lord Altham came out in a great passion and took the child from my lady and gave it to Joan Laffan. Lady Altham begged to have the child along with her, but my lord refused. I heard her say that she desired to have her own child with her. Mary Heath was in the chariot along with Lady Altham. She sent for the child to Ross, but could not have it. The child had gold lace on his

hat, and was dressed like a nobleman's child. Meagher was butler at this time. I saw the child at Carrickduff—I think six years afterwards. I knew him by his face to be the same child as I saw at Dunmaine. I did not stay at Carrickduff. I only went there to break some horses for my lord, I being a horse-rider. I saw Lord Altham walking about with the child at Carrickduff. I have heard that Mr. Lloyd, who christened the child, is dead, and that the godfathers and godmother are also dead. D. Redmond.

Cross-examined—I was servant to Lord Altham about two years before her ladyship came to Dunmaine. She was not long there before every one said she was with child. She was brought to bed about May. I was not present at the christening. I believe the midwife, for whom I was sent to Ross, is dead. Joan Landy was the nurse, and she afterwards married Daniel MacCormack. I cannot tell if she was married before. She had a child about a year before Lord Altham, of which some said that Lord Altham was the father.

The Lord Chief Baron—*It* seems odd that Lady Altham should send her child to be nursed to a person suspected to have a child by her ladyship's husband.

Cross-examination resumed—I saw Landy's child. It was christened by Father Michael Downes, and Landy's mother and sister took care of it when she nursed my lady's child. Landy's child died of smallpox at the age of three or four years, after Lord Altham had left Dunmaine. I was at the burial.

By what name was Landy's child called?—Sometimes it was called Jemmy Landy and sometimes MacCormack. I never heard Landy's child called Jemmy Annesley. I never heard it called Lord Altham's child. Landy's old house was put in repair for the reception of my lady's child. I was never examined before my present deposition. Colonel Palliser in some discourse with me desired me not to have anything to say to this affair.

Margaret Surcliffe, examined—I knew Lord and Lady Altham. Mrs. Shiels, the midwife, told me that she delivered Lady Altham of a child about April or May, about twenty-nine years ago. She came from Lady Altham to deliver me, and told me herself that a man and horse came for her. M. Surcliffe

Evidence objected to as hearsay evidence.

The Court allowed the objection.

Mary Doyle, examined—I knew the late Lord and Lady Altham. I was hired by the steward to be a servant in Lord Altham's service. I lived with Lady Altham three months before she was brought to bed, and I was in the room when Mary Doyle

Mary Boyle she was delivered of a son at Dunmaine. Mrs. Shiels, who lived at Ross, was the midwife. Dennis Redmonds was sent for her. Lord Altham was at home at the time. There were three or four servants, one Madam Butler and another lady present when Lady Altham was delivered. The christening of the child was public, and I was present at it. Mr. Anthony Colclough and Councillor Cliffe were the godfathers, and Mrs. Pigot was the godmother. My lord's chaplain, Mr. Lloyd, christened the child. There were great rejoicings for the birth, and plenty of wine and other liquors drank on that occasion. Several nurses came recommended, and one Joan Landy was appointed nurse. I have heard that she was then married to one MacCormack. She was a clean, bright girl. She was reputed to have had her child by her husband. I never heard she had had it by a sailor. I lived at Dunmaine for about five weeks after Lady Altham's child was born, and then I left for good.

Cross-examined—I remember to have seen Major Fitzgerald there a few days after Lady Altham was delivered. She was delivered some time in May. I never knew of any person being brought to bed at Dunmaine but Lady Altham. The child was christened in the big parlour about three weeks after his birth. Mrs. Heath was present at the christening.

Did you ever hear that Joan Landy had a bastard by Lord Altham?—Yes, I heard she had a bastard. I never was at Joan Landy's house, but I heard from the servants there that it was about two fields from the house of Dunmaine. The child was sent to Joan Landy about a fortnight after the christening. Charles Meagher was the butler then. Mary Heath was in the room when Lady Altham was delivered of the child, and Lord Altham was in his own little parlour. Lady Altham was almost three hours in labour. It was duskish when she was brought to bed. She was taken ill the day before.

D. Annesley Mrs. Deborah Annesley, examined—I knew Lord Altham when he lived at a place called Kinnea, in the County of Kildare. He was a relation of my husband. I lived at Ballyshannon, within 3 miles. Lord Altham used to visit us very often. At this time Lord Altham and my brother, Mr. Geoffrey Paul, used often to drink his son's health.

Did you visit Lord Altham at Kinnea?—No, I did not care to go down to the house, because Lord Altham had brought down a housekeeper there. My brother visited Lord Altham. I believed the child was my lord's lawful son—I never heard the contrary. The child was called James. My brother was a sober, grave man, and I am sure he would not have

toasted the health of the child if had been a bastard. The child went with Lord Altham to Carrickduff, and I never heard of it afterwards. After the death of Lord Altham my brother and I frequently inquired what had become of the boy, but we never could learn, and that made us all conclude that he was dead. D. Annesley

Cross-examined—I never doubted, I always believed that the child was Lord Altham's son, but I admit that I did not hear of the child till he came to Kinnea. After Lady Altham came over the second time from England she was supposed to be with child. I once visited Lady Altham when she came to the country, but, my husband soon after dying and I being in affliction, I never had any correspondence with the family afterwards. I myself drank Lord Altham's son's health often when my lord lived at Kinnea.

In what terms was it that your brother used to drink the health of the child?—"My lord, here's your lordship's son's health," which my lord seemed to take as a compliment.

Did you ever hear that Lord Altham had ever a bastard son?—I never did hear that he had any bastard child.

Thomas Barns, examined—I knew Lord and Lady Altham very well. I knew nothing of my lord's having a son but what I was told by my lord. I went to Ross in the spring of 1715. Lord Altham came to the inn where I was, and, meeting me in the kitchen, said he was glad to see me. We agreed to dine together, and then we went upstairs. After drinking some wine my lord said to me, "Tom, I'll tell you good news. I've a son by Moll Sheffield." Not remembering that she was my lord's wife, I shook my head, and said, "Who is Moll Sheffield?" My lord taking notice of my meaning, said, "Zoons, man, she's my wife," upon which I said, "My lord, I humbly beg your pardon. I am sorry for what I said." Until my lord mentioned that she was his wife I took her to be some naughty pack, but afterwards I recollected that my lord's wife was the Duke of Buckingham's daughter. I then advised him that since he had a son he should take care of his wife and discharge all other women. I know the year I went into the country, because I went upon hearing of my father's death. My lord lived at Dunmaine after the disgrace of the Duke of Ormond. The reason I remember is that I was receiver to the duke for forty-five years, and I came to Dublin from the country by order of Mr. Nutley, who was concerned for the duke. I was at Dunmaine the day after my lord and I had the conversation at Ross. I saw Lady Altham there. I might see a child there, but I am not certain. I do not remember any conversation with Lady Altham about the child at Dunmaine. I dined and supped T. Barns

T. Barns there, and I remember Lady Altham being at dinner, but not at supper. I think one Mr. Sutton was at dinner. I saw the servants at that time, but I do not recollect if they said anything to me or I to them. I do not remember seeing any nurse or child about the house.

Cross-examined—I went to Ross either in April or May, but I cannot say positively which month. I might have seen Rolph, the butler, but I do not know him now. I did not know the servants Dwyer or Cavanagh. I knew Mr. Taylor, but I had no discourse with him about the son. Lord Altham did not tell me whether or not the child was christened, nor what his name was. Nobody was present at Ross when my lord spoke to me about his son. The discourse was after dinner, and as common discourse, not as a secret.

How was it that you did not understand his lordship's expression of his having a son by Moll Sheffield?—I did not recollect who she was. I am sixty-five years old. I have served the Duke of Ormond since 1695.

Did you not say you had served him forty-five years?—I meant to this day. I have heard five hundred at Ross say that Lord Altham had a son.

S. Pigot Southwell Pigot, examined—I knew Lady Altham by sight. It was generally reported, without any contradiction, that she had a child about thirty years ago. I came over from England about the year 1712. There was a great intimacy between my stepmother, Mrs. Pigot, and Lady Altham. Mrs. Pigot died about 1720 or 1721. I never heard that the child I have heard Lady Altham had was a daughter.

What did you hear your stepmother say about her being godmother to the child?——

The question was objected to, and the objection was allowed.

Philip Breen Philip Breen, examined—I knew Lady Altham about thirty-three years ago at Dunmaine, where my father and mother lived, and Lord Altham long before that. I saw Lady Altham big with child at Dunmaine, and I also heard from the people of the place that she was with child. About twenty-eight or twenty-nine years ago (a little before or after May) there were great rejoicings at Dunmaine over the birth of a child. Joan Landy nursed the child at her father's house, which was a thatched house, and was repaired on that occasion. I have seen the child with Lord and Lady Altham in the coach. I remember the child Joan Landy had, and that it died of smallpox after Lord Altham left Dunmaine—I believe about a year afterwards. I was at the wake and burial. The child which Landy nursed was removed to Dunmaine, and delivered to Joan Laffan, one of the maids there. There was a coach

road made between Landy's house and Dunmaine House, and I have seen the coach go that road. I remember Mrs. Heath at Dunmaine at the time I saw the child. I have seen her take the child and play with him. Philip Breen

Cross-examined—I can't tell how I came to take notice of Mrs. Heath more than of any other woman. Some people about the town said that Lord Altham was the father of Joan Landy's child. Joan Landy was married to Daniel MacCormack after Lord Altham left Dunmaine. Lord Altham was supposed to have got the child in the house of Dunmaine when Landy was dairymaid. Joan Landy's child was about a year old when Lady Altham came to Dunmaine.

Do you not know that Joan Landy was turned out of the house upon Lady Altham's coming down with my lord?—I don't know that she was before, but she was turned out. Lady Altham was a tall woman, and Mrs. Heath was tall and thin. Joan Landy's child was called James Landy. I do not remember him ever being called Jemmy MacCormack.

Did you ever hear him called Jemmy Annesley?—Upon my oath I did not. I do not know who christened the child, or by what name it was christened. While Lord Altham's child was being nursed by Joan Landy her child was kept at her father's house.

Eleanor Murphy, examined—I knew Lord and Lady Altham at Dunmaine about twenty-eight or twenty-nine years ago. I was a servant there when my lady was brought to bed. I was called to bring up some water to my lady's room, and I went into the room with a basin of water immediately after Lady Altham was delivered of her son. Mrs. Shiels was the midwife. Dennis Redmonds was sent to Ross for her. When I went into the room Madam Butler, Mrs. Heath, and Mary Doyle were there. This happened about the beginning of summer. I remained at Dunmaine about two or three months after my lady's delivery of the son. Juggy Landy was the nurse. Several other women had applied for the nurse's place. I remember that there were bonfires and rejoicings at Dunmaine over the birth of a son. The child was about three weeks at Dunmaine after its birth, and then the nurse took him to her own house. A road was made from Dunmaine house to the nurse's house for the convenience of my lady's going there. Mr. Anthony Colclough and Mr. Cliffe were the godfathers, and Mrs. Pigot was the godmother, as I heard from several of the servants. Mr. Cliffe of Ross and Madam Pigot used to come to Dunmaine. I saw them there often. I was in the house at the christening, but I was not present. I was servant under the laundrymaid. I remember Mrs. Heath was in the room when my lady was brought to bed. The E. Murphy

E. Burgby christening was about three or four weeks after the child was born. Joan Landy had a house of her own before the nursing. I believe her mother and sister lived with her, but I do not know if her father was alive when she took Lady Altham's child to nurse. Joan Landy's own child was born about three-quarters of a year before Lady Altham's child, and it continued in the house with her after she took my lady's child to nurse, but in a different room. I believe the house was the same as it was before Landy had the nursing of the child.

Cross-examined—I went no further than the door of the house.

How could you know that there was another room?—The room was built as an addition to the old house.

Did you ever see Joan Landy's child before she got my lord's nursing?—Yes; I never saw it afterwards. It was about duskish when I went up to my lady's room with the water. Lady Altham had not a hard labour. She kept her room a month or six weeks after the birth. The child was christened before my lady left her room. It was christened in the yellow room, up one pair of stairs. I do not know who were at the christening. I was three months in the service before the birth of the child and a quarter of a year after. Mary Doyle came into the service before me, but I do not remember which of us left first. I have never seen her since, and I do not know that I could find her now.

Was Joan Landy married at that time?—Not that I know of.

Did not you say she had a child?—Well, and could not she have a child without being married?

Was it understood that her child was a bastard?—I don't know. I don't know who she fathered it upon.

Did not she father it upon Lord Altham?—I never heard any such thing.

Second Day, Saturday, 12th November, 1743.

C. Brown Christopher Brown, examined—I knew the late Lord Altham when he first came to Dunmaine, about thirty-three years ago, and I also knew Lady Altham when she came there about thirty years ago. To my knowledge, Lady Altham had a child about twenty-eight or twenty-nine years ago. At that time I was a servant with Mr. Anthony Cliffe. He went to the christening of Lady Altham's child at Dunmaine, and I waited at table upon him that day. Besides my master I remember seeing Mr.

Anthony Colclough, Mr. Cliffe of Ross, and Captain Tench. I am quite certain that Mr. Anthony Colclough was present at the christening. As near as I can tell, the christening took place in the month of May. There were no women present that I can recollect except Madam Pigot. Mr. Cliffe of Ross was my master's brother. There were a good many people in and about the house that day, and there was a very fine entertainment. After that time I was often sent by my master to Dunmaine to ask how Lord and Lady Altham and the child were. I saw the child several times at Dunmaine with the nurse Joan Landy, and also in my lady's lap. I never saw the child at any other place than at Dunmaine. The child was a boy, as I heard them say. My master lived at Dungulph, about 3 miles from Dunmaine. At the christening the healths of the "Lady in the Straw" and "The Young Christian" were drunk.

J. C. Brown

Cross-examined—I cannot say whether it was before or after dinner that the child was christened. There were other persons at table on the day of the christening besides those I have mentioned in my examination, but I do not know who they were. Lady Altham did not dine there. As I heard, the gentleman that christened the child was one Mr. Lloyd, a clergyman. My master stayed at Dunmaine till about eight o'clock that night. I could not say whether my master left the room that he dined in till he came away, because I was not there. Mr. Lloyd lived in Ross, and I frequently saw him there. I am quite certain he was among the gentlemen at dinner at Dunmaine. Madam Pigot sat at the upper end of the table. I do not remember whether there were any other women there or not.

What is it that makes you recollect the particular persons you named?—Because I knew them all along.

Do you remember the year 1720?—I do.

Do you know where your master dined in May twenty years ago?—Indeed I don't.

Do you know any place he dined at these thirty years past?—Indeed I don't know. Captain Tench, my master, Mr. Cliffe of Ross, and Mr. Lloyd are all dead. I am not aware that there is any person living that I saw at the christening. I dined along with the menservants that day. I could not say whether I dined with the upper or lower servants, as they were all among one another. I knew Mr. Taylor; he did not dine with me. Dennis Redmonds dined with me. I could not say whether Mr. Taylor is still alive. No women dined at the table with me. I cannot remember which of the menservants dined with me.

When you waited at table, did you not observe the servants that waited with you?—If I did, they were so busy they did

C. Brown not dine with us. I saw the man that served as butler that day several times before, but I have never seen him since. I think his name was Anthony Dyer, but I did not know him. He did not dine with me that day.

Did he not serve you with drink?—Some of the servants did. I cannot recollect the name of any servant that dined with me, as it is so long ago.

Did you sit drinking for any time after dinner at your own table?—We did.

You drank healths, I suppose?—Aye did we, and were very merry there. I don't remember any particular health that was drank at our table. I could not say whether or not we had a goose for dinner that day.

Were there any partridge at dinner that day?—I cannot tell whether there was or no, so you need not ask anything more about that. Can I carry it in my head to keep an account of them things?

How do you know who were gossips?—I heard among the servants. I could not say whether the child was christened above or below stairs, because I was not to the fore. I did not see either the child or the nurse that day. I knew Captain Sutton, but I cannot recollect whether I ever saw him at Dunmaine or not. I do not know whether he dined there at the christening. I knew him as well as Captain Tench. I remember that Captain Tench dined at Dunmaine that day, because my master's sister was married to him. I remember that Anthony Colclough dined there, because he was one of the gossips. My master did not stay at Dunmaine that night. There were great rejoicings that night. I did not see a bonfire.

Do you know that there was a bonfire there any other night?—No, nothing but what I heard from the servants. I did not know one Rolph, Thomas Rolph, the butler, and I never saw him to my knowledge.

You say that you were at Dunmaine several times with messages. To whom did you deliver them?—To Mr. Taylor. I cannot say when I last saw Mr. Taylor. I don't know whether I have seen him during the last twenty years.

How can you remember that you delivered your messages to Mr. Taylor?—Why should I not remember it? I never delivered any messages to any woman servant.

Do you know my lady's woman?—I did not.

Did you know Mrs. Heath?—I cannot tell whether I did or no.

When you went with these civil messages were not you called up to my lady's room?—I never was.

Had you any answer brought you down from my lady's room?—I had. Mr. Taylor brought those answers to me.

Evidence for Plaintiff.

What was he? Did he wear a livery?—A livery! No, he C. Brown
were extraordinary good clothes. I believe he was my lord's gentleman that looked after my lord's con. rns. He lived in the house.

He was accidentally the person you met?—Why, I always inquired for him and stayed till I found him. I don't know whether he is still alive.

What do you believe, sir?—I believe in God, sir.

Do you know one Mary Doyle?—I know several Mary Doyles, but perhaps not the one you are inquiring after.

Do you know one Nellie Murphy?—Where does she live, sir?

In the parish of Tyntern?—I do not. I live in the parish of Dumbrody.

Did you see any women within this week that were called by the names of Mary Doyle and Nellie Murphy?—Indeed I don't know whether I did or no. I saw Lady Altham after the christening in the parlour at Dunmaine, but I do not know how long after the christening it would be that I saw her the first time. I saw her with the child in her lap. I believe that would be about a year after the christening day. She was a very fine woman, tall and slender in her face. She was not fat. I don't know what colour her hair was, as it was always powdered. I don't know whether her hair was red or not. I can't tell whether her complexion was fair or dark. She appeared to me a very handsome woman.

Was she a fat or thin woman?—I tell you she was a very thin, spare woman.

Was she so in her body?—Indeed I cannot tell.

What do you mean then by that?—I mean in the face. She was taller than I was.

How often did you see my lady?—She was sitting down in the parlour, and I never saw her but that time.

How do you know, then, that she was taller than you?—Her bulk showed her to be a tall woman.

You say you never saw her but once; why did you say that her hair was always powdered?—I said I believed so, because I saw her hair powdered that day. I never saw her before or after that day. I thought she was always powdered, because I believe all ladies wear powder. I think it would be about ten o'clock when I saw her.

How long did you live with Mr. Cliffe before this christening?—I don't know how long before, but I lived one-and-twenty years with him. I cannot tell how long I lived with him after the christening. I was living with him when and after Lord Altham came to Dunmaine. M. . aster was at Dunmaine when Lord Altham was there on other occasions

C. Brown besides that of the christening. He did not dine there; he went there in the afternoon. Lord Altham sometimes came to my master's house, but Lady Altham never came. My master had some sisters that lived in the house with him, but they did not visit Lady Altham. I never saw Lady Altham or the child in Lord Altham's coach. Anthony Dyer waited as butler on the day of the christening.

Did he not wait at the sideboard?—He used to run about the house, up and down. I went to the sideboard that day for my master, and I helped myself to what I wanted. There were a great many other servants there. Mr. Cliffe of Ross had a servant there that day; I think his name was Magee. He, along with every gentleman's servant, waited at dinner. All those gentlemen's servants dined with me, but I don't know the name of any of them.

Upon your oath, do you remember the name of any one person with whom you yourself dined that day?—I don't, sir; so you may ask me no more about their names. I do not remember who any of them belonged to as it is so long ago.

Pray, friend, did you not know Magee?—I knew he was the Councillor's servant, and as near as I can guess they called him Magee. I did not know him any more than the rest of the servants. Councillor Cliffe was my master's brother, but Magee did not live long with him. He was at Dunmaine with me that day, but I can't tell whether he dined with me. I don't know how many tables there were for the servants. We dined in the common hall. I can't remember whether one Dennis Redmonds dined with me that day.

Sir, have you not sworn that Dennis Redmonds dined with you that day?—I don't know. The common hall was on the same floor as the parlour. I don't know how large the servants' hall was. I believe some of the servants dined in the kitchen, but I did not dine there. I dined at a long table. I saw but one table for the servants in the common hall that day.

When you went on the several messages you mentioned after the christening, were you ever in any room of the house?—I was not, but only sometimes I'd go to the kitchen. The kitchen was above ground that time, upon the same floor with the parlour and the common hall. I think the common hall is on the right hand of the great door, and the kitchen is beyond that. I did not go downstairs into the common hall or into the kitchen. I went in at the street door. The kitchen is nearer to the hall than to the parlour.

You say the kitchen is nearer to the hall than it is to the parlour?—I say the common hall is nearer to the parlour than to the kitchen, and the kitchen above that again.

Was the kitchen upon the same floor with the hall?—It was upon the same floor.

Evidence for Plaintiff.

JOHN SCOTT, examined—I knew the late Lord Altham when he lived at Dunmaine thirty years ago. I was servant to Mrs. Pigot, who lived at Tyntern, within 4 miles of Dunmaine, the year this gentleman was born, about twenty-eight or twenty-nine years ago. John Scott

What gentleman do you mean?—Why, the child.

What child?—Why, Mr. Annesley.

Whose child was he?—My Lord Altham's. I was sent several times from Mrs. Pigot to Lord and Lady Altham's at Dunmaine to inquire how the child, Master Jemmy Annesley, did. Sir Harry Pierce, who married my master's daughter, told me he had a letter from his lady giving an account that my lord had a son. The general reputation of the country was that my Lord Altham had a son by my lady. I have seen the child brought by the nurse to Mrs. Pigot three or four times.

Cross-examined—I knew the house at Dunmaine very well, because I was born near it. I used to go through the yard to the kitchen. The kitchen was not on the same floor as the parlour. Going in at the front door, the kitchen is down some ten or twelve steps. The servants' hall is between the kitchen and the little parlour, below stairs. There is no hall for the servants to dine in on the same floor as the parlour. I was only once in England, and that was about twenty-eight or twenty-nine years ago. It was after my return from England that Lord and Lady Altham's child was born.

CHRISTOPHER BROWN, recalled by the Court, examined—The house of Dunmaine had a front and back door. I do not recollect whether I went up to the front part of the house by steps or not, nor am I sure whether or not the gentry dined in the best parlour. I cannot remember whether coming in at the front door there were any steps down to the kitchen. The kitchen was on the same floor as the parlour where the gentry dined, and was also on the same floor as the hall where the servants dined. C. Brown

JOHN SCOTT, recalled by the Court, examined—I delivered my first message at Dunmaine to Anthony Dyer. I delivered my next message to Joan Laffan, who was a servantmaid in the house. The butler at that time was one Thomas Rolph. Owen Cavanagh lived with Lord Altham, but not at that time. I knew Martin Neif, who lived there, and I knew that Mrs. Heath was my lady's woman. John Scott

JOAN LAFFAN, examined—I knew the late Lord and Lady Altham. I went into the service of Lady Altham in the Joan Laffan

Joan Laffan harvest time of 1715, but I do not remember in what month. I was then engaged as chambermaid, and then when Lord and Lady Altham's child came from the wet nurse I was employed to attend him. I continued to take care of the child for nearly a year and a half. His name was James Annesley, and he was kept like a nobleman's child. As near as I can remember he was about a year and a half old when I took care of him. I believe he would be about three or four months old when I first entered Lady Altham's service. During the time I took care of the child Lord and Lady Altham were very fond of him, and he was treated by the house and neighbours as my lord and lad[illegible]wful child. In the morning my lady would order me [illegible]ng the child, and would kiss him and call him a dear. The child was sent to a place called Kinnea when he was about three years old. I did not go with the child. Lord Altham sent his butler (whose name was Charles Fielding, he was generally called Meagher) for the child. About half a year after I had the care of the child my lord and lady separated, and my lady went to lodge at Captain Butler's at Ross. She parted in a very angry manner about Tom Palliser, whose ear was cut off in my presence. She requested to have her child with her, but my lord would not let her have him. Some of the servants of the house found means to carry the child privately to Ross to see my lady, and he was angry at that being done. After the separation the defendant, Lord Anglesea, came to Dunmaine and asked me, "Where is Jemmy; where is my brother's child?"

Did he say, "My brother's child?"—Yes, upon my word, and he asked how his mother behaved to him. I told him that she requested my lord to have the favour of letting her have the child with her, and my lord would not let her have him. "Damn my blood," says he. "By my Saviour Jesus Christ, if I had been he I would have let her have him, and she might carry him to the devil, for I would keep none of the breed of her." I remember the oath as if I had heard him the other day. I am of a good family, and I would not have waited on the child if I had believed him to be a bastard.

Cross-examined—I saw Lord Altham's child immediately after I came into the service. Sweet whey was made for the nurse to drink, because my lady ordered that she should not eat greens, potatoes, or roots for fear of hurting her milk. Sometimes my lady would ride in the evening to Joan Landy's house and fetch the child in the coach with her. I commenced to attend the child after I had been at Dunmaine for about a year.

Did he live constantly in the nurse's house till he came to you?—Yes, but now and then when company was at my lord's

house the nurse and child would stay all night. Upon my Jean Loftus
oath I saw the child shown to Lord Doneraile, who took out a handful of gold and bade him take his choice of a piece. That was after the separation. The child was shown to Lord Doneraile by me at the request of Lord Altham, who called for him and took a great deal of pleasure in him. The child was always shown to the company that came to Dunmaine House. Mrs. Giffard sometimes called, and I think she saw the child, but I cannot tell, for Mrs. Giffard was not so grand a woman, and I took no great notice of her. Mrs. Giffard never visited after the separation.

Did she visit between the time the child was committed to you and the separation?—Upon my word, I never do remember to see her there during that time. While the child was at the wet nurse my lady would fetch it on fine days, and it was usually shown to her company during that time. It was dressed up like a nobleman's child, with a velvet cloak and a scarlet hat and feather. There were no fine clothes kept in the nurses's house. He was dressed at home by my lady and Mrs. Heath to be shown to company. Nellie Butler was the laundrymaid at that time. Mrs. Giffard always dined with my lord and lady when she called.

Do you not know that Mrs. Giffard's husband was reckoned a gentleman of estate and a Justice of the Peace?—Well, there are a great many indifferent men Justices of the Peace in our county. I remember Mrs. Lambert, who called very frequently, as she was a great friend. The child was shown to Mrs. Lambert during the time he was with the wet nurse as well as in my time. I knew Colonel Palliser; he was very seldom at Dunmaine, and I cannot say whether he ever saw the child.

Was Mr. Tom Palliser there?—He was there, and I wish he never had been, for if he had not this dispute would never have happened. He frequently saw the child. The child, Master Jemmy Annesley, showed me upon the floor the blood that came out of Tom Palliser's ear the very day that it was cut off. His ear was cut off by the huntsmen on my lord's order. I was present when his ear was cut off. My lord was going to take his life, but the servants desired him to cut his ear off instead. Palliser was brought out of my lady's chamber into a room and then my lord wished to run him through with a sword, but was prevented by the servants. This happened about eight o'clock on a Sunday morning. My lady left the house that evening. When they cut off Palliser's ear they kicked him downstairs and turned him out of the gate. I do not remember seeing Colonel Loftus at Dunmaine. I remember Anthony Dyer; he was a poor lad

James Laffan

that Lord Altham took up as a page. He attended at the table. I also remember Bryan MacCormack, Charles Fielding, and Mr. Taylor. The butler was Charles Meagher. I am positive that Tom Rolph was not there in my time. Mrs. Heath, my lady's woman, lived at Dunmaine all the time I was there. I do not remember Owen Cavanagh. I remember Martin Neif, who was a smith and lived in the family. I have known William Elmes since I was born. He is a good, honest man, a gentleman farmer, living about 2 miles from Dunmaine. I never saw him or any of his family at Dunmaine, but he sometimes used to hunt with my lord. I have only been once in England, and that was on 25th March, [illegible]ear ago. I know William Henderson, a Quaker. I saw him at Waterford before I went to England. I went to his house in London. I do not exactly remember what company went with me in the ship. Joan Landy was there, but I do not think that Symon Phelan was in the same ship. The reason I went to England was that William Henderson having heard I was a servant of Lord and Lady Altham he asked me if I knew anything of their having a son. I told him I did, but I said, "I believe this child is not living, for I heard he was transported a long time ago." To that Henderson replied that he was not dead, that he was living in London. Bridget Howlat and Michael Boland also went in the same ship with me. I never made an affidavit in relation to this matter before Mr. Robert Snow, of Waterford. No person ever wrote down what I told them in relation to this matter in my presence. I was sworn before a Master in Chancery in London, and examined there. No person gave me any money to bear my charges to England. Joan Landy, Bridget Howlat, and I took a hackney coach to London. I cannot tell who hired that coach, but I paid 15s. or 16s. myself. I was not told before I left Ireland that there would be a coach for us at Bristol. I cannot tell whether Joan Landy was told. Mr. Henderson met me at Bristol, and travelled in the same coach to London.

Did not Mr. Henderson pay for that coach?—He paid for the rest, I suppose, but not for me. Mr. Henderson paid the reckoning all along. I had designed going to England before I was applied to in England, because my nephews were going on board the King's ship. I paid a crown for my passage to Bristol. The first night I was in London I went to a lodging which Mr. Henderson had found for me. I cannot tell who paid for that lodging.

Where did you s[illegible] your time in England?—They thought to have this tri[illegible] England, but something happened to hinder it. Mr. Henderson desired me to stay as his servant,

and I stayed in his house for a whole year. During that time Joan Laffan
I knew Mr. Patterson, a lawyer. Both he and Mr. MacKercher spoke to me about the present affair. Joan Landy stayed in Henderson's house as a servant as long as I did. Bridget Howlat did not stay there. Mr. Patterson did not speak to me about this matter more than once or twice. No bribe was ever given or offered to me.

Mr. Baron Mountenay—I knew a practiser of that name, and if he be the person meant by the witness—I believe he is—he is a gentleman of as fair character as any in the city of London.

Cross-examination continued—Neither Mrs. Lambert nor Mrs. Giffard ever stayed a night at Dunmaine to my knowledge. I never knew Lady Altham to visit Mrs. Giffard, as she was not so grand a woman as for my lady to visit her. I went to see the child at Joan Landy's house. He was always in his night-clothes there.

Did you ever see the child after it was taken from you?—After I left the service (and I was the last servant at Dunmaine) I went to Kinnea to get my wages, and saw the child there in the care of a young woman called Mrs. Mary, a kind of tutoress to him. He was about four years old then. By the virtue of my oath he was the same child as the child I saw at Dunmaine. Joan Landy had a child of her own. She nursed it herself, and then afterwards it was nursed by her sister. The child was called Jemmy Landy. I never heard any other name. I heard that the child was dead. During the time of my lady's being at Dunmaine the child was reported to be Joan's child by a sailor, her husband, who was abroad, or else, to be sure, she would never have had my lady's child to nurse; but I believe my lady somehow or other heard after the parting that it was by my lord she had it. I saw Father Michael Downes very seldom at Dunmaine. I do not remember that he was there when the child was there. I believe the kitchenmaid was present when Lord Anglesea swore that he would keep none of the breed of my Lady Altham. I am a Roman Catholic, but I do not belong to Father Downes' parish.

Thomas Brooks, examined—I knew the late Lord and Lady T. Brooks
Altham.

Of what profession are you?—I am a Roman Catholic.

No, but what business or occupation do you follow?—I am a piece of a surgeon. I have followed my profession for forty-seven or forty-eight years. I lived in a town called Farreen, about 3 miles from Dunmaine. About twenty-eight or twenty-

T. Brooke nine years ago a servant of Lord Altham's came to my father's house in the evening, and desired me to hasten to Dunmaine immediately. He did not tell me then what I was wanted for. To the best of my knowledge this would be in the spring of the year. When I arrived at Dunmaine, Mrs. Shiels, whom I knew very well, came to me and showed me the way to my lady's room. Mrs. Shiels was a midwife. She ordered me to bleed the lady with all the speed I could. I knew the lady to be Lady Altham, because the midwife told me so. I had seen her before.

Do you know from your own knowledge who that lady was?—I saw no other there but her, and she was called the Lady Altham. I found her sitting up in bed, and the midwife told me what her disorder was. When I was bleeding her she said, "Oh, my God," several times. I quitted the room immediately after I had done my duty, and I went into another room to refresh myself. After a considerable time Mrs. Shiels came down smiling among the servants, and told us that the lady was delivered of a fine son. I did not know Mrs. Hamilton, but she might be at Dunmaine unknown to me, because it is not my particular business to take notice of anybody when I go on such an errand.

Cross-examined—To the best of my knowledge, I went up one pair of stairs to my lady's room. When I came out of her room I went into another room down stairs. I was not paid for my service. I cannot tell why. I did not see Lord Altham. I saw one Redmonds in the house, and I took him to be a servant. I do not know either Rolph or Anthony Dyer. I did not ask the name of the boy who came for me. I did not know Mr. Sutton, the surgeon. It is usual to bleed women that are in labour.

Were you told that my lady was in labour?—I was not.

When you were there did you see anything like the sign of labour about her?—I did not. I cannot tell which arm I bled my lady in. She never asked me any questions as to whether it was safe to bleed her in the condition she was in. She just held out her arm by Mrs. Shiels' directions, and the blood was received in a pewter plate held by Mrs. Shiels. I do not remember whether my lady had her clothes on or not. The bedclothes were up about her. To the best of my knowledge there were other three or four women in the room. I believe there was a surgeon at Ross, which is about 3 miles from Dunmaine. I have seen Mr. Sutton, the surgeon, but I cannot tell whether he lived at Ross. I cannot tell how much blood I took from my lady, as I just bled by guess. The midwife bade me not to take much blood. The lady I bled was

a handsome woman. She was not fair, but I could not say whether she was thin faced or round faced, because I did not take such great notice. I had been at Dunmaine previously to bleed some of the servants of the house. I never knew any other but myself to be employed there at that time. I cannot tell what year this was in, but, as far as I can remember, it was twenty-eight or twenty-nine years ago. I do not know whether I heard of Queen Anne's death or not. I saw Lady Altham in Dunmaine House both before and after the time that I bled her. To the best of my knowledge I am about forty-eight or forty-nine years old. T. Brooks

How many years have you been a piece of a surgeon?—I cannot tell you that; I believe since I was about twenty years of age. Lady Altham was not the first person I ever bled. I cannot tell how many years I was practising before I bled her. I learned to bleed from one of the name of John Grimes.

Can you name any person's name that you bled twenty or thirty years ago?—No; I remember bleeding Mrs. Sutton some five or six years ago. I do not know how Mr. Annesley came to know that I ever bled Lady Altham. Somebody asked me at a fair whether I had bled her.

Laurence Missett, examined—I knew a person called Lord Altham who lived in Kinnea, which is about 2½ miles from where I now live. I believe he lived there about two years. I think I was seventeen or eighteen years old then. I do not know whether he had a son at that time or not, but there was a school in the town where I now live, Dowdingstown, and a boy came to that school whom we took to be Lord Altham's son. I used to go to that school myself. It was a poor country school for poor farmers' children. The schoolmaster was called Bryan Connor. The boy that was called Lord Altham's son could not be less than six years old, and he remained at school for about a month. The schoolmaster was a papist, and was persecuted by a Protestant schoolmaster in the neighbourhood. I told Lord Altham that he was persecuted, and my father also spoke to him about t' affair. He was asked to banish the master that was persecuting this poor man, and he said he would take another method, that he would send his son to school to him and then he believed by that means the other man would cease to persecute Bryan Connor. I do not know what year or month this was in. I believe I am about forty-two or forty-three years old now. I cannot tell how long Lord Altham was living at Kinnea before the son came to school. I believe the boy lodged somewhere in the neighbourhood. I do not remember him having any person to attend to him. Lord Altham called three or four times for the boy at the school. I do not know by what L. Missett

Lt. Hasset name my lord called the boy. He was generally known at school as the young Lord Altham. I used to go fishing with the schoolmaster near Lord Altham's house. Lord Altham sent for us, and once came himself and brought us to his house, and we saw the boy there. The boy used to stay with us in the room, or Lord Altham would send for him. He always introduced him as his son, but I cannot tell what his name was.

Did you apprehend at that time that he was the lawful son of Lord Altham?—I did not distinguish at that time what was the lawful or unlawful son, but he was my Lord Altham's son. My Lord Altham used to call me by the name Larry, and he hoped I would see the boy Earl of Anglesea. The boy was reputed to be Lord Altham's son in the neighbourhood where I lived.

By the Lord Chief Baron—I am certain that the boy I saw at Connor's school, and afterwards at Kinnea, was the boy called Lord Altham's son. I am sure he is the same boy that Lord Altham acknowledged to be his son. I am sure he is the same person that Lord Altham said to me that he hoped I would see the Earl of Anglesea.

Cross-examined—I remember before my lord quitted Kinnea there was a report that Lady Altham had been away some time from my lord, and she got this son at that time. I could not say whether Mr. Annesley, who is now shown me in Court, is the same as I saw at Kinnea, it being so long ago. I never heard of Juggy Landy till this affair came to be talked of in public. The boy was never called by the name of Landy till recently. To the best of my knowledge, when the boy was at Connor's school he was clad in a coat and breeches, and he had an escalloped silver laced hat. He was a little boy, but I could not take him to be less than six years old. My own age was above sixteen, and by what I am told I am now forty-three years old. I cannot tell what time of the year it was that the child came first to school, but I think it must have been some time in spring, as it was in the season that my lord used to hunt. I was married in April, 1730. I cannot remember how many years I had left school before I was married. I remember to have heard talk of the South Sea year, the year 1720. I am sure I was not at Connor's school then. I went to France in the year 1723. I heard of the Rebellion of Preston, and also of the death of Queen Anne, but I cannot recollect how near that was to the time I saw the boy at Kinnea. I cannot tell whether I was eighteen years old when I saw the boy at Connor's. I was not married at that time, nor was I in any sort of business.

Were you of an age to go to school with such a boy?—

There were many of three-and-twenty at that time went, for L. Sheet there were but few schools thereabouts.

Can you be positive that you were under twenty?—I cannot say what age I was. Lord Altham was very free with all the boys that used to hunt with his dogs, and I was acquainted with him in that way.

Can you be certain that you were not eighteen, nineteen, twenty, or twenty-one at that time?—Upon my word, I cannot. I think I was above sixteen, but I cannot be certain that I was above seventeen. After I left Connor's school I went to a place called Naas to learn mathematics, and I was there above a year. I did not go immediately afterwards to France.

Did you go to France in two or three years after?—I cannot tell. I lived at home with my father before I went to France. I cannot tell how long I stayed at Connor's school after the child left it.

Are you positive as to the fact you mentioned of having seen the boy with a silver laced hat that was called my Lord Altham's son?—I am, and I believe it was the first and last laced hat that ever was at that school.

Are you sure that the boy that went to Connor's school and was brought to you in the room was called by my lord his son?—I am.

Are you certain that you were above sixteen?—If I could tell you my age to a minute I would do so, but I cannot say it. The reason of my saying that I was fifteen or about that was that I used to go to fish with the schoolmaster and to wade in the river, and I believe I should not be fond of doing so if I was not that age. If I had known I was to be asked about this matter I might have referred to some books and papers that I made use of at Connor's school and at the mathematical school. I do not know whether these are still in existence.

James Walsh, examined—I knew the late Lord and Lady Altham. Owing to some dispute between them Lady Altham came to Ross, to the house of my stepfather, Mr. Richard Butler. As she appeared to be in some trouble my mother took the liberty of asking what ailed her, upon which her ladyship said in my presence that she had a great deal of reason, for my lord used her ill. With that she sat down and shed a few tears, and she said that if it were not for two considerations her heart would break. The first was, her ladyship said, that she thanked God she had a very tender, indulgent father, the Duke of Buckingham, who would not abandon her in her affliction, and the other was that she had a very promising young son, who, she trusted, if God would give him life, would be a support and prop to her in her James Walsh

James Walsh

old age. I cannot say that I ever saw that son, because I lived then about 6 miles from Ross, and I only came once a week or so to see my mother, who was married to Mr. Butler.

Cross-examined—The conversation I have narrated happened about twenty-seven years ago. My mother and stepfather were present at the conversation; they are dead. I am not sure whether Mrs. Shiels was present. This happened on a Sunday, I think, the very day that Lady Altham came from Dunmaine. It was never doubted that Lady Altham had a son. I do not know what became of the child. I heard that my lord had a child, and I heard from several credible people that it was nursed at Dunmaine. I was told that the child was brought to see his mother, Lady Altham, when he was two or three years old. I suppose he was brought by his nurse, but I do not know who his nurse was. I do not know Juggy Landy. I was at the door when Lady Altham came to Ross; to the best of my recollection she came in a single-horse chair. I fancy she had a waiting-maid when she was at my mother's house, and I believe that the name was Heath. I do not think Mrs. Heath was present when the conversation I have referred to passed between Lady Altham and my mother, but I cannot say, as it is so long ago. I often saw Lady Altham at Ross after that day, because she lived a considerable time in Mr. Butler's house. I have more than once heard her say that she thanked God she had a son who, she trusted, would be a comfort to her. She said that she was wronged, and that his lordship pleased to use her ill. Mr. Butler was at the door when my lady arrived, and he handed her out of the chair. I do not think I handed anybody out. I am certain that Lady Altham came before dinner and dined with us that day. She did not go back to Dunmaine that night. I believe she stayed some months in Mr. Butler's house, and then she removed to one Wright's, to the best of my knowledge. I would be two or three days in Mr. Butler's house before she came.

How came it that she was brought there?—I have two reasons. The first is that Mr. Butler had had the honour to be introduced to the Duke of Buckingham. Another reason was this, that my mother was intimately acquainted with my lady, and had a regard for her. Our usual time of dining was about one or two o'clock. Lady Altham came before dinner-time.

J. Cavanagh

James Cavanagh, examined—I was acquainted with the late Lord Altham as a neighbour at Carrickduff, about the year 1721 or 1722, or thereabouts. He lived in his own house at Carrickduff, and we were neighbours for about a year and

a half or two years. He had an only child that lived with him there that was then deemed his son, his name being James Annesley. I saw that son as often as I went there, maybe once a week or twice a week. He lived in the house with his father. I observed his father to be as tender and respectful of him as a parent should be to a child. I never heard Lord Altham speak about his son's mother, or say who was the mother. I never had reason to doubt his being a legitimate son; I never heard his birth doubted. J. Cavanagh

Did he pass in that neighbourhood for a son of my lord by his lady?—I never heard of his lady nor any talk of her at all. One day my lord and I happened to discourse about the child, whom he had by the hand walking through the yard. I said that he was growing a pretty sprightly boy, and I hoped he was improving in his learning, and Lord Altham said, "I have a person in the house to instruct him," and upon that he took an opportunity of saying "that he would one day or other be Earl of Anglesea." I heard that the boy went to school in the house to his tutor. I looked upon him to be eight or nine years old when Lord Altham left Carrickduff. Lord Altham visited the gentry in the neighbourhood and carried the child with him, particularly to my own house. The child was generally treated as my Lord Altham's son. I never saw the child after he left Carrickduff.

Cross-examined—Did you not hear this child afterwards reputed to be a natural son of my Lord Altham's?—I never did till of late days till he came over to sue for this estate. I do not know anything about Lord Altham's parting with my lady. When the child came to Carrickduff in 1721 I took him to be about seven years old or thereabouts. I never heard any talk of his mother. I did not know Lord Altham before he came to Carrickduff. We became great friends because I was his nearest neighbour. I cannot swear whether or not Lord Altham came to Carrickduff before the year 1721, nor can I say whether he came in the winter or summer. I do not know from what place he came, as I had not known him before, and I never troubled my head about that. I believe my lord visited Mr. Charles Byrne. I cannot say that I was ever in company with Lord Altham in any gentleman's house in the neighbourhood.

Did you ever see the child with my lord at any other person's house?—I have seen him at public meetings, but I do not remember positively that he carried him to any gentleman's house in the neighbourhood. I often saw my lord and the boy going about public places. I have heard that my lord lived at a place called Mountaingrange, but I do not know about that myself.

J. Dempsey

JAMES DEMPSEY, examined—I knew the late Lord Altham at Carrickduff, in the year 1721. I knew that he had a son then, because he sent one Mr. Thomas Owens for me to take care of the child. I believe Mr. Owens is now dead. I took care of the child as my Lord Altham's child, and I was to have £8 a year for doing so. I was to act as schoolmaster, and to live in the house. I lived in the house half a year, but being told it would be to my advantage to teach about the neighbourhood, I told my lord of it, and I desired to leave to teach his son abroad. He gave me leave provided I took care of the child and did not suffer him to get the itch or any distemper among the poor people's children. I set up a school at Bunclody. A servant was sent with the child every day. He was treated as my lord's son, and the common people called him "Tiern Oge," the young lord. My Lord Altham always introduced him to the gentlemen that came to his house as his lawful son. He had two or three suits, a suit of scarlet for State days, and when he went to school he wore a suit of brown fustian. He was in my care for about two years. As far as I understand, Lord Altham lived at Carrickduff for two years and a half. I taught the boy to read English. He was seven or eight years old when I first went to him. About twelve months ago, as Mr. Annesley was returning from the County of Wexford to Dublin, in company with Mr. Mackercher, they called at Hacketstown in the County of Carlow, where I lived. Mr. MacKercher sent for me and asked if I knew any one in the company. I told him that I knew him perfectly well, Mr. Jemmy Annesley, who was under my care. I believe there were five or six gentlemen in the room, but I cannot say very well. I pitched upon Mr. Annesley because I knew him; I knew his very face. I had not seen him from the time I saw him at Carrickduff. I cannot say whether he had had the smallpox when he was at Carrickduff. I had no idea that he was in the kingdom. I said, "This is Mr. James Annesley, if he be a living man," upon which he came over and kissed me and asked me how I did.

Did he know who you were?—I believe he knew I was in the house, because they asked for me.

Is that gentleman now in Court?—That is the gentleman (pointing to Mr. Annesley). By virtue of my oath that is the gentleman that my Lord Altham recommended to me as his lawful son to take care of. After Carrickduff I lived for some time in Dublin. I never saw the boy in Dublin, but I heard that he was in Dublin and that he was transported.

To what place?—I do not know; to where people are generally transported. I had no conversation with Mr.

Daniel MacKercher

(From a mezzotint portrait by Brooks).

Annesley that day concerning any passages of his life. I left Carrickduff before Lord Altham and went to a school in the Barony of Mullin, in the County of Carlow. I remained in the company of Mr. Annesley and the others for about an hour and a half. He did not mention one syllable about what had happened to him. He told me of some hardships that he had undergone, but no particulars. J. Dempsey

Cross-examined—I believe it will be about a twelve-month ago since I saw this young man at Hacketstown. I saw him at Mr. Lawrence Cullen's inn, where I had gone to take a beefsteak. I was not asked to go there. I had no knowledge that these people were to be at Hacketstown that day, and they had no intimation from me.

Did anybody bid you go there?—They did not; but I went to take a beefsteak in the morning. I live at a place called Ballymackowny, and I go to eat at Hacketstown.

Mr. Mackercher sent for me. I never knew him before. There was a gentleman, Mr. Mark Owens, in Mr. Mackercher's company, who told Mr. Annesley that his tutor was in town, and would be very glad to see him. I had known Mark Owens for twenty-six years. He was generally at Carrickduff at the time I instructed the son of Lord Altham. He dined once or twice every week with my lord, and he saw me attend the boy in the family. Mark Owens asked the woman in the house if I was there. I had not seen Mark Owens for about two years before that day, nor had I ever any discourse with him about Mr. Annesley.

Upon your oath did you ever hear before this time that my Lord Altham's son was living from any person whatsoever?—I did not.

Did you not hear that there was a man come over that said he was Lord Altham's son?—Upon my oath I do not know whether I did or not. No person ever spoke to me about my Lord Altham's son. Mr. Mackercher asked me whether I knew any one in the company. He did not point to the man. I certainly knew Mark Owens.

Why did you not point at him, then?—Because Mark Owens was out of the rank that was pointed at.

Who were in that circle of people that were pointed at to you?—All but Mark Owens, who opened the door and stood by the side of the door when I went in. I never knew Captain Levingston or Mr. Mackercher before. By his appearance Captain Levingston could not be the boy that I tutored. Mr. Mackercher did not appear to be about the same age as the boy I tutored. I did not know for what purpose I had been sent there.

What profession are you of?—I will tell you any other time you will please to ask me. I am about thirty-seven

J. Dempsey

or thirty-eight. I was not acquainted with Lord Altham before I was employed as tutor to his son. Mr. Thomas Owens, my father's landlord, recommended me to Lord Altham as a fit person. I believe I would be about eighteen years old, but I cannot exactly say. I was not twenty years old.

Of what religion were you at that time?—I did not know much of any kind of religion at that time, but I have a better opinion now. I went to Mass. My parents were popish. While I lived in Lord Altham's house for six months I did not go to either church or Mass. Lord Altham had no knowledge of my father and mother. He never asked what religion we were of. I was never asked whether I was a Protestant or not. I kept a school at Bunclody for about eight or ten months.

Had you any other gentleman's child?—Never a gentleman's child, but Thomas Owens. I knew one Thompson Gregory, who lived at Carrickduff with Lord Altham the whole time I was there. Thompson Gregory saw the boy that I had care of in the house, but he never came to the school. I went away from Carrickduff before my lord.

Did he provide any other tutor in your place?—I was told he went to one Taaff, within half a mile of the place.

Had he any tutor in the house for him?—No, he had not.

Did you at any time after this take orders in any religion?—That is a question I am not obliged to answer. I have always been striving to have a very good notion of religion. I have lived in the parish of Hacketstown for the last three years. I believe that about half a year ago I had a conversation with Mr. Francis Thornhill, gentleman to Mr. Paul, relating to Mr. Annesley. That was after I had seen Mr. Mackercher at Hacketstown. I had never heard of Mr. Levingston or Mr. Mackercher before that time. I have not seen Mr. Mackercher since I was at Hacketstown till a week ago, and I had not seen Mark Owens till last Monday. I had no conversation with him about the evidence I was to give.

Had you with anybody else?—Yes, with several, what I could say. I told Mr. Mackercher at Hacketstown that I was teaching him for such a time. "Can you swear to it?" says he, and I told him that I could. Mr. Annesley wore his own hair—flaxen hair—when he was at school with me. I cannot tell whether he has had the smallpox since.

Did he wear his own hair or a wig when you saw him at Hacketstown?—Upon my word, I cannot well remember; let it be what it would, it was so tight that I cannot well tell whether it was his own hair or a wig, and it was not so very polite to gaze at a man. I knew him at the first glimpse. I went to school myself for about two or three years after I left Bunclody. My schoolmaster was one Hughes, and the first

book I was put to when I went to school was the Odes of Horace.

C. Byrne

Charles Byrne, examined—I knew the late Lord Altham at Carrickduff in the year 1721 or 1722. I lived about 3 or 4 miles away. My lord had a child, a youth, with him that he called his son. He was called Master Annesley, and was reputed to be my lord's son. I was frequently in the house, and I saw the boy there. He was brought up as his lordship's child. He was very fond of him seemingly. I knew Lord Altham there for more than a year. He visited at my house. I also saw him and his son at the house of one Mr. Redmonds. I have heard my lord mention the child as any father would in company.

In what manner did my lord use to talk of this child, whether as a natural son or another?—If he was the best duke in England, and brought an unnatural son to my house, I should look upon it as the highest affront put upon me, and would despise his company and resent it as deserved. I always looked upon the boy as a lawful son, as my son is by my wife. I remember meeting Lord Altham at the house of Mr. Redmonds, when they drank the boy at dinner as Lord Anglesea, that he might live to be Lord Anglesea. Lord Altham thanked the company. I took the boy to be about seven years old or thereabouts. He used to ride with my lord on a little horse that he had. He was dressed very gaily, with a feather in his hat. I never saw the boy from that time till about yesterday evening. I cannot take upon me to know him for certain. I could not pretend to know my own child at that distance of time. I do not know where Lord Altham went upon his leaving Carrickduff. When I saw this gentleman last night I thought there was something struck me as if it was something like it, but to take it upon me to say it was the same I cannot.

Cross-examined—Were you not introduced to him as Mr. Annesley?—To be sure.

Had you met him at any other place or out of the kingdom would you have known him?—No more than I should have known the King of Morocco, had I not been told so.

J. Cavanagh

James Cavanagh, examined—I knew the late Lord Altham when he lived at Carrickduff about twenty-one or twenty-two years ago. I saw a child there about six or seven years old, whom Lord Altham said was his son. He treated him as his child. The servants spoke about him as "Master"—I think "Master James"—but I won't be positive.

Nicholas Duffe

Nicholas Duffe, examined—I knew the late Lord Altham when he lodged in Cross Lane, Dublin, about twenty-one years

Nicholas Duffe

ago. I cannot say where he lived immediately before that time. Master James Annesley was with him then, and he treated the child just as any lord or gentleman would treat his child. I am sure he was his own son. I kept a public-house then, and Lord Altham used to have his liquor from me. One day he said to me, "If I live to be Earl of Anglesea, this child will be Lord Altham."

How came my lord to say this to you?—I drank and kept company with him several times. He was a very free and clever man. The boy went to a school in Frapper Lane kept by Mr. Daniel Carthy. My two sons went to school along with him. I saw my lord's servant, as they told me, going with the boy to school several times. He was in Lord Altham's livery, as near as I can remember. The child was called by the neighbours in Cross Lane, sometimes Lord Altham, sometimes James, or Jemmy, or Master Annesley. I believe he would be about eight years of age when he went to school. He went to that school as long as he lived in Cross Lane. I do not think he lived a year there. Lord Altham was in no great circumstances at that time. I knew Miss Gregory very well, because she came several times to my house along with Betty Leicester. She lived with her mother, Mrs. Field, in Mr. Turner's house, the same house as my lord lived in. Betty Leicester lived in the opposite house. They came several times to my house and called for liquors. I was not much acquainted with Lord Altham's family.

Was Miss Gregory a part of his family?—She was of that family—I do not say of his family—but she was in the house.

Did you take this child to be the legitimate child of my lord?—No man in the world but took him to be his child, and my lord did not say against it. My lord told me another time, "Duffe, you may see him Earl of Anglesea or Lord Altham," I do not know which.

Cross-examined—I cannot tell how nearly Miss Gregory was related to Lord Altham. For all I know, she may have been called in the family my Lord Haveraham's niece. The neighbours in Cross Lane were very honest people.

Were there any gentlemen that kept a coach?—No, but there were honest, substantial people, and people that could afford to lend a thousand pounds. Mr. Carthy kept a Latin school, and there were a great many responsible people's children that were there. Mr. Plunket, the brewer's son, went there.

What are you?—I am a gentleman.

Did you not carry a chair at that time?—What of that? I am a gentleman now.

Were you not a common chairman in town?—I was so, but I paid everybody their own and did my business well. Before I carried a chair I was a farmer in the County of Meath.

Evidence for Plaintiff.

Do you not keep Mr. Mackercher's door? Are you not his porter?—That is no question to be asked now. Could not I open your door? Is that any fault? I do open it sometimes. Nicholas Duff

Are you not Mr. Mackercher's porter?—I am no porter. I sometimes attend his door to oblige Mr. Annesley or Mr. Mackercher. I receive no wages; I am no hired servant. I came upon my own cost and charges from England here. I became acquainted with Mr. Mackercher in London, about a twelve-month ago. I heard of Mr. Annesley, and I knew him here when he was a child—I heard that he had returned from transportation, and I found that he was lodged at a Quaker's house, Mr. Henderson's. Mr. Mackercher told me where Mr. Annesley was.

How came you in a year's time to contract such an acquaintance with Mr. Mackercher as to open his door? Have you ever received any civilities or good offices from him?—Never did. Civility! Yes, he used me civilly. Mr. Mackercher's house stands in College Green, and the door upon the house is swept by a porter called Dogherty. I never sweep Mr. Mackercher's door. I cannot tell what Lord Altham's livery was when he was living in Cross Lane. I knew the servants by the livery then, but I cannot recollect it now.

How long have you had the possession of that coat upon your back?—Since I bought it.

How long ago was that?—Why, it was last spring. Why don't you ask me when I bought this wig? I was at one time a servant to Mr. MacCartney, but I wore my own clothes. I had a farm from Mr. Carter's father, for which I paid about £50 a year.

What is the reason, and by whose directions is it, that you stand at Mr. Mackercher's door?—By my own directions, to divert me, for my own pleasure, for unless I did it I should go into an ale-house to drink.

Catherine O'Neile, examined—I was employed by the late Lord Altham to take care of his son at Carrickduff about twenty-two or twenty-three years ago. I waited on him for a year there, and then I took him to Cross Lane, Dublin, and left him there. His name was James Annesley. He was reputed and treated as my lord and lady's son. Mistress Nellie Gregory lived at Carrickduff, and my lord treated her as a relation and cousin. C. O'Neile

How did he treat her afterwards when they came to Dublin?—I did not live with them; she lived with him as a bed-companion. I saw the child's birthnight kept in Carrickduff. There were bonfires and rejoicings made on that occasion; the neighbours all gathered there, and there was merriment.

Where was my Lady Altham at the time of Lord Altham

C. O'Kelly being at Carrickduff?—At the first of his coming there she was in Ross, and afterwards she removed to Dublin. When the child came to Dublin he was over eight years old. About half a year after I left him in Cross Lane he came to see me in James's Street, Dublin. Lady Altham was in Stable Lane while my lord was in Cross Lane. I do not know whether Master Annesley went to school. When he came to me in James's Street he asked me to apply to my lord for subsistence. He was in a very indifferent condition as to dress. To the best of my knowledge he was sent to board at Mrs. Cooper's, in Ship Street. After that his father lived at Inchicore, and to the best of my knowledge the boy lived at Mrs. Cooper's. I did not know her. I asked my lord how he came to part with the boy, and he said he had got some vicious tricks and that till he could break him off these vicious tricks he would keep him in that way. Mrs. Gregory was then at Inchicore. I went there several times, because my husband was a servant to my lord. I spoke to my lord of my own motion. I asked him whether he had made any provision for the child, and he told me that he paid for his diet to Mrs. Cooper, and that Mrs. Cooper had complained that the boy was guilty of bad tricks. Upon that I told my lord that it was nothing but a contrivance of Miss Gregory and Mrs. Cooper to get rid of the child. My lord said that whether he was guilty of those actions or not he would show him no countenance. He said there was no peace in the house while he was there, because Miss Gregory did not love the child, and that he would fain keep peace for a while, and when some little jealousies were over he would take him again and give him a subsistence. I sometimes used to go to Lord Altham's, where my husband was still a servant. After I left the child at Dublin I went back to Carrickduff and stayed there for about half a year, and then I came to Dublin. Lord Altham then lived in Inchicore, but I heard he lived in Frapper Lane before he went to Inchicore.

You said that my lord said there was some little jealousies. Tell them?—I cannot tell as for that, but because Miss Gregory did not love the child. I cannot tell how long it was that Master Annesley lodged at Mrs. Cooper's. Lady Altham once sent a servant for me at James's Street, after I had delivered Master Annesley to my lord in Cross Lane. I was brought into her chamber at Stable Lane, and she asked me how Miss Gregory behaved when she went to my lord in the County of Carlow. I answered that she behaved mighty well as a relation and was very fond of the child. She asked me how she behaved when she came to Dublin, and I said that I could not tell, but that by report she did not like Master Annesley. Lady Altham called the child Jemmy Annesley. She sent a letter

by me to one Mrs. Weedon about the child. Mrs. Weedon was C. O'Hara
a servant that came out of England with the family first, and she lived with Miss Gregory's mother in Stonybatter. I cannot tell whether Mrs. Weedon is living or dead. I cannot read. Mr. Weedon had a child, William, who stayed in Carrickduff, and was Master Jemmy's companion. My lady said that she was very desirous to see her child, but she knew if any of the servants brought him to her it would be a means of turning them out of their bread. I remember when my Lord Altham died. I never saw the present Earl of Anglesea to my knowledge. When my lady said that she would be glad to see the child he was not at liberty to go where he would. He came of himself to me at St. James's Street. I believe he was living at Mrs. Cooper's when my lady said this to me. It will be about eighteen or nineteen years ago since I saw the child in James's Street. I asked him if he ever went to see his mother, and when he told me that he did not I asked him the reason, and he said that he was in such a condition that he was ashamed, and if my lord should hear of it he would banish him for ever. I would know the child if I saw him again. I saw him a little before Christmas a year ago, and I knew who he was.

Look about the Court and see if you know him?—That is he (pointing to Mr. Annesley).

Cross-examined—When Master Annesley applied to me in James's Street he was in a low condition, wanting clothes. I cannot tell whether he wanted meat and drink. He came to me in St. James's Street two or three times.

Do you know whether Lady Altham ever saw him?—I cannot tell any more concerning it. Master Annesley came to me about a week or a fortnight after I came to James's Street. I think I was in James's Street for about a week or a fortnight when Lady Altham sent for me. She was of a swarthy, dark complexion, and had brown hair of a dark colour. I did not take the son to her, because I was afraid of my lord. When my lord spoke about giving him a subsistence, I understood that he would take him back again to the house. The boy did not wish to go back to his mother, because he was not in order. I told him that I had seen his mother, and I asked him to go to her. He had shoes and stockings on, but his clothing did not look like that of a gentleman's child. He did not look as if he had been well fed. When at Carrickduff the boy went to James Dempsey's school at Bunclody.

John Byrne, examined—I have seen the late Lord Altham, John Byrne
but I was not acquainted with him intimately. He lived in Frapper Lane, Dublin, for a short time some nineteen years ago. I was told that he kept a young lady there, and had

John Byrne

a little boy that they called Master James, that I very often used to see in the lane. I never spoke to Lord Altham about that boy. When Lord Altham left Frapper Lane I believe the boy was left behind. I believe that it was the very same boy that now appears here as a man. He was generally reputed to be my Lord Altham's son and heir. I very often saw him playing with a son of mine. I verily believe that this gentleman is the boy that I have talked of. I say so from the recollection I have of his physiognomy. I believe he was eight or nine years old then. I believe that the gentleman I point to (pointing to Mr. Annesley) is the boy.

Cross-examined—I cannot tell where Lord Altham went to from Frapper Lane, but I was told that he had taken some place in the country. I saw the boy in Frapper Lane after my lord had left.

Did you not see him at some distance of time after in ragged clothes about the street?—I never saw him after the year 1724, and he was then in very indifferent apparel. I did not hear that my lord had turned him out of doors, but I heard that there was some disagreement between the boy and Miss Gregory, and that the boy quitted the house. I could not say whether he ever lay in my hay loft. I was told that my son in a great measure supported him.

Do you believe that he was turned off by my lord?—I cannot frame any belief whether he was or not. I cannot tell whether Lord Altham left any servants in the house when he went to the country. I believe the house belonged to Captain Simpson. I do not know who lived in the house when my lord left it.

Charity Blake

Mrs. Charity Blake, examined—I never knew of my Lady Altham being with child. I was acquainted with her in the year the Pretender was in Scotland. I was often in her company when she lived at Temple Bar and Essex Street. I saw Lord Altham about thirty years ago. My maiden name was Annesley, and I believe that Lord Altham and I were cousin-german's children. I never heard of my lady's having had a child.

Did you hear of my lady's ever having a child?—I did.

Did you ever hear from my Lady Altham that she had a child?—Never, but from common fame that she had a child. I never knew Lady Altham after she left Temple Bar, because I was married and went far into the country, and never kept up any correspondence with her. I never heard that she miscarried.

Cross-examined—Do you not believe that if Lord and Lady Altham had had a child you would have been acquainted with it?—I think I should. I never heard any mention of her being with child by my lord.

Evidence for Plaintiff.

Third Day, Monday, 14th November, 1743.

E. Lutwich

Edward Lutwich, examined—I was a trooper in Brigadier Napier's regiment, and was quartered in Ross the summer before the war was proclaimed against Spain, in the year 1717 or 1718. I knew Lady Altham, then at Ross. I was a shoemaker to trade, and I was recommended to her to make a pair of shoes and slippers of white damask. I went to her lodgings at one Mrs. Wright's in connection with these shoes, and I found that she had a child with her about three years old. She asked me to make a pair of shoes for her child, which I did. Two days after they were made I came home with them and asked if the young lord was within to fit the shoes on, and the maid answered that my lady was within, but that the child had gone away the morning before. I saw my lady, and when she was paying me for the shoes she said, "I am paying for these shoes, but I do not know whether they will fit or no, for I had better been the wife of the poorest tradesman in Ross than my Lord Altham's, for then I could see my child every day, but now I can see him but by stealth." I cannot tell where the child came from. The child was clothed as became a person of quality's child.

Cross-examined—I was a trooper in Brigadier Napier's regiment.

Name the officers of your troop?—There were Brigadier Napier, Lieutenant Buckland, Cornet Ormsby, and Quartermaster Ford. There was another troop quartered in the town, and Mr. Langton was their quartermaster. I was twice at least at Lady Altham's about the shoes. She lodged in Wright's house, which was a good distance away from the church. I was in Ross for about nine or ten months. Wright kept a private house. When I first went to my lady the child was not there. I cannot name any person that I saw there at that time.

Was there any shoemaker lived in the town of Ross?—To be sure there was. My lady came into the parlour, and I took off her shoe and took her measure. She gave me the damask to make the shoes with. When I came back on the second occasion the child was in the parlour along with my lady. I judged him to be three years old. There was a woman along with her, but I did not know her name. I do not know whether the child lay in her house or not. It was quite common knowledge that my lady was separated from my lord. I have not been at Ross since I left it with the troop. I live now in London, with a pension.

How long have you been acquainted with Mr. Hackercher?—After the trial of this young nobleman the story went about

R. Lutwich

that he was a pretender and a bastard, and I said, "Upon my soul, I believe if ever my mother had a son my Lady Altham had one," and that he was the son of Lady Altham. I had no reason in the world for thinking so besides the meeting at Ross. I thought that my lady would not own an impostor.

Could you be positive at this distance of time whether my lady said, "make the shoes for 'this child' or 'my child'?"—I cannot be positive at this time, but by vitrue of my oath to the best of my knowledge it was "for my child."

B. Furlong

Bartholomew Furlong, examined—I knew my Lord and Lady Altham about thirty years ago. At that time I used to buy corn for the merchants of Ross. When I got to know Lord Altham he used to send to me to buy him bacon, cheese, butter, and what the house wanted. About a year and a half afterwards I went to Dunmaine with some bacon, and I perceived that my Lady Altham was with child. It was the common report of the neighbourhood that she was ready to lie in. Upon this I went to Pierce Sutton, who was intimate with my lord, and desired him to apply for the nursing for my wife. He told me that Captain Tench was more intimate with my lord than he was, and upon that I went to Captain Tench, and he gave me a letter to my lord. I gave it to him, and he said to my lady, "Here is a letter from Captain Tench desiring you to give your nursing to this man's wife." She asked me if my wife was a young woman, and I told her she was. She said that whoever was to nurse her child was to live in Dunmaine, because she must see it every day. My lord said that he would give me £6 in money and build me a house in Dunmaine, and my lady said she would give 20s. more. I sent my wife there to see my lady. My wife told me afterwards that Dr. Brown had been to see her milk, but at that time the child she had upon her breast was taken ill and the milk was so disturbed that the doctor did not like it. I then went to Dunmaine House after that, and my lady said that she was sorry that Dr. Brown told her that my wife was not fit for the purpose. I heard from the neighbours that my lady was brought to bed of a son. About a year and a half after that I was at Dunmaine on some business for my lord, and there was a woman came to the house with some chickens. My lady had a child in leading strings, about a year and a half child, and the child cried for the chickens. This was a male child, and my lord called him Jemmy.

Cross-examined—I am fifty-five years old, and have been married for thirty-three years. I have four children alive and two dead. The child that I had when my wife applied for the nursing is still alive. His name is Michael, and to the best

of my knowledge he is either twenty-eight or twenty-nine. He was born in April or the beginning of May. My wife had been brought to bed about two months before I applied for the nursing. Mr. R. Furlong

Was it the harvest time that you applied?—No, it must have been either April or March.

When was the time you applied for the nursing?—Indeed, to the best of my knowledge, it was either in February or March that I applied for the nursing.

Then I ask you again what time of the year was this son of yours born?—Upon my word, I cannot well tell; but it was some time before that, before February and March.

Were the trees budding when your son was born?—No, the trees, I believe—let me recollect myself—my son was born in April or May, but it was not passing a fortnight or three weeks before that my lady was brought to bed.

What time of the year did you apply for the nursing?—I can give no further account, but I would say that it was in February or March. I believe that my son must have been one month or over when I applied. My lady was taller than my lord. She was a tall, black woman, with a good complexion.

Do you know what a good complexion is?—As near as I can describe it, she looked well in the face. She was fair, but not so good a fair as other women were; she was a good-complexioned woman. My wife is living.

What kind of complexion has your wife?—Pugh! she is a brown woman.

Had my lady a brown complexion?—Yes.

Was she as brown as your wife?—She was not of one colour with my wife to be sure.

Which did you think the handsomer woman, my Lady Altham or your wife?—I thought that Lady Altham was fifty times beyond her, but my wife was more pleasing to me—she was better coloured formerly than she is now. Dr. Brown died a good many years ago. Upon my oath I made the agreement for the nursing with both my lord and lady together, and my lady gave me an English half-crown in earnest for it out of her own hand. Captain Tench is dead. When the chicken ran away from the child the child cried, and my lord said, "Jemmy, Jemmy, don't cry."

The Right Honourable Hugh Montgomery, Earl of Mount Alexander, examined—I knew the late Lord Altham. One night I was eating oysters with him and Captain Crow, and my lord said, "By God, Crow, my wife has got a son, which will make that rake my brother's nose swell." Whether it was so or not I cannot tell, but that is what he said. I cannot tell Earl of Mount Alexander

Earl of Mount Alexander

how long ago that was. I give my honour and oath that Lord Altham said these words at one Sprig's house, upon the Glibb in Dublin. I cannot tell how long it was before Lady Altham died. I do not know whether my lord and lady lived separately then or not. I cannot tell whether it was since Queen Anne died.

Cross-examined—I never heard that Lord Altham had a bastard son. I was pretty often with Lord Altham drinking a bottle of wine. I never heard anything of a separation between him and his lady. I never visited him in my life. We used to meet at the house on the Glibb to drink ale and eat oysters. I never heard before that there was any child. I was very often in company with my Lord Altham before this.

M. Rodgers

Margaret Hodgers, examined—I knew Lord Altham, and had the honour of seeing Lady Altham once at Mr. King's, the apothecary's, in Charles Street, in the year 1723. In that year I had lodgings to let in Ormond Quay. A man came to see if I would board and lodge a lady and her woman. I agreed to do so, and the man fetched Lady Altham's woman. She liked the lodgings very well, and she and the man agreed with me to board my Lady Altham and her woman for £60 or £70 a year. I do not know the name of the man that came to take the lodgings, but he lived in Mountrath Street. He gave me a pistole earnest. Next morning the man that had taken the lodgings came and told me that he was sorry that my lady could not come to lodge with me because the doctors thought that the quay would not be good for her health, and upon that I gave him back the pistole. About a fortnight after I met an acquaintance, Mrs. Lloyd, to whom I told the story, and she said that I was a fool for giving back the earnest, and she advised me to wait on my lady myself and acquaint her how I had been served, and to ask if it was with her ladyship's knowledge. I accordingly went to my lady, in Charles Street. I found her sitting, being in a weak condition in her limbs. I begged her pardon for being so rude as to come to her, but I said that I thought that I was dealt with unkindly. I told her ladyship that I was her countrywoman, and she said, "I wish I had never seen Ireland, and I wish you better luck in it than I have had, for there has been an unhappy quarrel between my lord and me, and he has aspersed me in my character." I asked her if she had any children, and she said that she had a son. I then took leave of her, and I have not seen her again. I know that it was my Lady Altham, because they called her so. Her maid's name went by the name of Heath. This happened in the year 1723.

Cross-examined—I came over to Ireland in 1720 or 1721. I live within half a mile of my Lord Howth. I never dined

with my Lady Altham. I cannot give an account of any E. Rodgers
person present at the time of my conversation with my lady. Her woman was in and out of the room, but she had more manners than to stay at the conversation. My lady told me that she had a son, and gave a sigh when she said that, and seemed to be in trouble.

Upon your oath can you take upon you to say that it was Lady Altham that was there?—They called her so, and I know no more upon the oath I have taken. My lady looked sickly, and I think she was of a swarthy complexion, with dark brown hair. I cannot tell what height she was, because she was sitting.

Thomas Byrne, examined—I saw the late Lord Altham several times in Frapper Lane about nineteen or twenty years ago. He left Frapper Lane in 1724. He had a child that was reputed to be his son. We were boys in the same street, and played every day together. I believe Lord Altham lived for about a year in that street. I remember that because my father, who had been in a bad state of health and had gone to live in the country, came back to town, and I was taken from school and put into his business to take care of it. While my father was in the country I lodged in Frapper Lane, and went to school in the Cloysters. Lord Altham's boy went to Carthy's school in Frapper Lane. The boy lived in the house in Frapper Lane along with Lord Altham while he was attending school. I actually saw him and Lord Altham together once, and that was when we were playing at the door, and my lord called him in, saying, "Jemmy, come in, and bring in Master Byrne with you." We went in, and my lord brought us into the parlour. In about half a minute he was called out by somebody, and I saw no more of him at that time. After Lord Altham left Frapper Lane the boy remained in the house for about five or six days, and then he came to take his leave of me, and told me that he was going with one Mr. Cavanagh, a dancing master, who was going to put him out to board and to school. I believe the boy would be about ten years old when Lord Altham left Frapper Lane. A good many months after that he came back to me and told me that he had been very ill-used and that he would stay no longer where he was, that he had gone from his lodgings in Ship Street to Mr. Cavanagh, who had turned him out. I advised him to go to his father, Lord Altham, who, I heard, was living then at Inchicore. He told me he would not go there, because there was one Miss Gregory who would never let him rest. As I could not persuade the boy to go to Inchicore, I asked him to stay with me, and he did so for about five or six weeks. When I could have him he lay with me, and at other times he Thomas Byrne

Thomas Byrne

was obliged to lie in the hayloft. I gave him meat and drink because of the friendship that was between us, we having been playfellows and living in the same street so long. My father did not know of it. During these five or six weeks that the boy was with me I do not believe that Lord Altham knew where he was. The boy got tired of that manner of living, and said that he would go home to his father at Inchicore. I do not know what became of him afterwards otherwise than by hearsay. When he first came to his father's house in Frapper Lane he was very well clad; he had scarlet clothes. All the genteel boys in the street were playfellows of him and me. I can remember, among others, the son of Captain Eames, a brewer; two sons of Robin Byrne, a brewer; the son of Reilly, a brewer, and two sons of Reilly, at whose house I lodged.

I never saw the boy again till he came from the West Indies. About a year ago Mr. Matthews, who was formerly a brewer, met me at the Globe Coffee-house one morning and asked me if I would dine with him the next day. I was surprised, because he had never invited me to dine with him before. Next day Mr. Matthews sent for a coach, and he, my father, and I got into it. Instead of our going to Mr. Matthews' house on Usher's Quay, he ordered the coach to drive to Jervis Street. We stopped at the house of Moore, the apothecary. We were shown upstairs into a dining-room, and Mr. Mackercher, whom I had never seen before, came into the room and saluted us all very complacently and civilly. My father and Mr. Matthews seemed to know him very well. Immediately afterwards three other gentlemen came into the room, and Mr. Matthews asked me if I knew any of the gentlemen's faces. I looked for some time at them. I knew Mr. Annesley's face perfectly well, and I told him that I knew his face very well, that he was the same person that was in Lord Altham's house in Frapper Lane. I knew that Mr. Annesley had returned to Ireland, but this was the first time I had seen him after his return. I had no conversation with my father before this about his coming over. I believe Mr. Annesley had not been here above two or three days. I did not know he lodged at Jervis Street, but I had some idea of it when I heard the coachman directed thither. I had heard Mr. Matthews say in the coffee-house that he had come over with Mr. Annesley, and I was also told at the coffee-house that Mr. Matthews and Mr. Annesley had been at "The Bear," in Crane Lane, and sent a messenger for me, that they wanted to see me. I never saw the other gentleman who came into the room with Mr. Annesley before that time.

Did you say whether you had any remembrance of the boy that was your playfellow, and whether you knew him again?

—I knew him as perfectly as anybody in the world. That is Thomas Byrne
he (pointing to Mr. Annesley)—that is the very person that I played with.

Cross-examined—I am thirty-four years old next January, and I was about thirteen or fourteen when I saw Lord Altham in Frapper Lane nineteen or twenty years ago.

What family had my lord there?—There were Miss Gregory, a very genteel, pretty woman, her mother, and servants, and the boy, my Lord Altham's son. I don't know what Miss Gregory's name was. The boy was looked upon as Lord Altham's son by everybody in the street and neighbourhood. Carthy's school, to which the boy went, was both a Latin and an English one. I cannot tell of what religion Carthy was. I believe a great many good people's children went to his school, but the school in the Cloysters to which I went was by far the more reputable one. I was only once in Lord Altham's house, as I have told in my examination. That was the only occasion on which I saw the boy in Lord Altham's company. He was two or three years younger than I was. When I advised the boy afterwards to go to Inchicore and he refused, I did not know that he had a mother alive, but I heard that he was a son of Lord Altham's. I heard that my Lord Altham's lady was his mother. I never heard him about that time reputed to be the bastard child of Lord Altham.

Michael Waldron, examined—I am an attorney of this M. Waldron
Court. I think I have seen the late Lord Altham. I went to Barnaby Dunn's school in Wa[illegible]eet, and there was a young gentleman there that [illegible]der the title of Lord Altham's son. I believe I am [illegible]out thirty years old now, and I think I was ten or eleven or tw[illegible]e when I was at this school. I was just beginning my grammar. I went to Dunn's school for two years, and the young gentleman was there for six or eight months. I don't know who came to visit him. I heard that he lodged in Ship Street at that time. He was called "the young Lord Altham" by his schoolfellows, and particularly by Mr. Cavanagh, the dancing master's son. I heard the schoolmaster say one day that, if he was a duke's son, let alone a lord's son, he would correct him. I used to go to Mr. Cavanagh's dancing school to take care of my sister, and I saw this same young gentleman at that school, but whether he was a scholar there or no I cannot tell.

Did you ever see him since he came to Ireland?—Yes, several times. I saw the gentleman that is now reputed to be the son, but whether he be the one that went to school with me I cannot say, because I cannot remember his features. I never saw him after he went to school with me, except at Cavanagh's dancing school.

M. Waldron Cross-examined—I was introduced into his company to know whether I could recollect him as Mr. Annesley.

Were you asked whether you knew him?—I was not asked that. Indeed, I introduced myself. I told a good many gentlemen in town that I went to school with him, and they told me that it was only doing justice to let him know that, and so I went to his lodgings, but I don't pretend to remember him now.

B. Dunn Barnaby Dunn, examined—In the year 1724 I kept a school in Bluecoat Alley, near the Main Guard, and Master James Annesley was recommended to me as Lord Altham's son by Mr. James Cavanagh, a dancing master. I believe he was at school with me for eight or nine months. No one came to see him except Mr. Cavanagh. When Mr. Cavanagh gave me a charge of him he said, "Here's a young gentleman I bring to you, and as you regard me I desire you'll take care of him; he's Lord Altham's son." I was introduced to Lord Altham at Mr. Cavanagh's, in Copper Alley, and, after we had drank together, he said, "You are recommended to me as a discreet, sober man, and an instructor of youth; I have now sent my son or child to you, and desire you'll take care of him, and you shall be rewarded." Mr. Michael Waldron, the attorney, wrote me a letter to come up to Dublin without delay, and in consequence of that I called on him, and he kissed me and said I was welcome. He asked if I did not remember one Master Annesley that went to school with me, and I said that I did, and that he, Mr. Waldron, was at school at the same time. We then both went to College Green, where I believe Mr. Annesley now lodges. There were some other gentlemen in the room to which we were taken, and then *he* came out of another room, and I apprehended he was the man. I believe Mr. Mackercher came in along with him. When I looked upon his face I knew him, because I took particular notice of something about his eyes when he came to my school, when he was about ten or twelve years old. I thought I observed a little cast or turn in his eye. That is he (pointing to Mr. Annesley). I know him very well. I know I am on my oath.

Can you take upon you to say that he is the person that you knew when a boy?—I can, by virtue of my oath; if I was a dying man I could safely swear that I knew him to be the same person.

Cross-examined—I instructed Lord Kingsland that now is and his brother at Lady Kingsland's house in Queen Street for about five or six years. I have a copy of a note in which my lady directed her agent to pay some money that was due me. That note is dated 21st September, 1724. The child I have been talking about came to me some time before that note.

I believe he came about the month of July, and I entered him in my book by the name of Master James Annesley. I lost that book with the rest of my papers when I went into the country to instruct other gentlemen's children. I think he stayed with me till the Easter following. I spoke to Mr. Cavanagh about being paid for taking care of him, and he told me that after some little time my lord would have money enough, and that I should then be paid for him; but I never was paid. The boy absented himself from school, and I was told that he lodged in a house in Ship Street. I inquired of the landlady whether such a child lived in that house, but I did not see him. I was going to punish him afterwards, and told him he took too great a privilege, and I said, "Were you a duke's child and sent to me for a scholar, and were you my Lord Anglesea himself, I would punish you." I cannot remember whether I taught him any Latin, but I am certain that I taught him to read and write. I found that he had been at some other schools before he came to my school. As far as I could judge, he appeared to me to be between nine and eleven years of age. D. Dunn

Did any servant use to attend him at your school?—Yes, there came a servant, some sort of a footman, along with him, sometimes in bluish clothes. He did not come with him constantly; indeed, I cannot tell what attendance he gave, but I know there came once or twice a servant to inquire for him.

Thomas Byrne, recalled by the Court—I believe it was in the beginning of summer of 1724, in May or thereabouts, that my Lord Altham left Frapper Lane for a few days when he told me Mr. Cavanagh, the dancing master, was taking him to board and school. I cannot say that he and I ever went to swim together, nor can I say that I ever saw him naked. He came to live with me some time after October, and I believe before Christmas. My father came back from the country in October, and it was very soon after that. The boy did not go to school at that time, nor did I. We were generally together, passing in and out of the ward. He might be absent two or three hours at a time, but he was not regularly absent. Thomas Byrne

Patrick Plunket, examined—I knew the late Lord Altham when he lived in Frapper Lane, the next house but one to my father's, in the year 1723. When he came to Frapper Lane he had a pack of hounds, and I used to go out hunting with him. I went very often into his house and drank with him. He had a child called James Annesley, and I have seen my lord speak to him several times. He called him "Jemmy." Miss Gregory often used to complain to my lord of the child, and I twice or thrice interceded and got a pardon for him. P. Plunket

P. Plaintiff She perhaps told my lord that he told lies or "mitched" from school, or such frivolous things. Miss Gregory called him Jemmy. I never heard either Miss Gregory or Lord Altham say that he was my lord's son, but I have heard the servants say that he was my lord's son.

In what manner did my lord treat him?—All the knowledge that I have is this, that Miss Gregory made complaints to my lord of him, and I interceded with my lord to excuse him, and said, "I hope you will pardon Master James this time, and he'll not do so again."

From your observation of my lord's behaviour and Miss Gregory's, did you or did you not understand that the child was a relation of my lord's?—I understood by Miss Gregory's behaviour that she had no great inclination for the child. Miss Gregory was a relation of my lord, and she managed the house as housekeeper. I interceded for the boy because I saw that my lord was going to beat him.

In what manner did my lord behave; how did he express himself?—He was harsh. The general reputation of the neighbourhood was that the boy was my Lord Altham's lawful son. I never heard any question of the least suspicion of his being deemed a bastard until after Admiral Vernon sent him home to England.

How do you know Admiral Vernon sent him home?—The present Lady Anglesea that lives in Frapper Street sent to an alehouse to know if there were any neighbours that knew the late Lord Altham. On being informed that I knew him, she sent for me about May, a twelvemonth ago. I told her that I knew the late Lord Altham, and was often in his house. She asked me if I remembered a boy, a bastard son of his, that was in the house, and I said, "I never heard of any bastard son that lived in the house; but, to the best of my knowledge, I knew a very pretty little boy called James Annesley, who was deemed my lord's lawful son." My lady then said, "That was the boy who was my Lord Altham's bastard son, and," says she, "I could take on me to say that he was bastard son to my unfortunate lord." I never saw this gentleman from April or May, 1724, till, I believe, October, a twelvemonth ago, when I saw him in a house where he lodged near St. Mary's Church. There was one Mr. Cook, a linen draper, who told me that there was a gentleman, Mr. Annesley, who had come over, and he asked me how long I had lived in Frapper Lane. I told him that I had lived there about twenty-six years. He then said, "There is a son of Lord Altham's come here to claim the Anglesea estate." I asked if it was Jemmy Annesley, and he said it was. I then said that I knew him very well, because he went to school in my father's yard to one Carthy, a school-

master. He asked me if I would know him again, and, after S. Plunket considering whether I should know him, I said, "I would hold a dozen of wine I know him the first moment I saw him." I believe there were a dozen gentlemen in the room when I went in, and I immediately went over to him and took him by the hand and said, "This is Mr. Annesley who went to school in Frapper Lane." I never heard of him before Mr. Cook came to me, and I had no conversation about Mr. Annesley with anybody but with Mr. Cook. The room in which I saw Mr. Annesley was a large parlour, and there were many people about the table with him drinking. When I went into the room a gentleman received me at the door. Mr. Cook went into the room at the same time, or he stood at the door, I cannot be positive. The candles were either lighting or just lighted. I looked round the room, and went over and took Mr. Annesley by the hand, and said that he was welcome to Ireland.

By virtue of your oath, did anybody speak to you or tell you that that was he?—By virtue of my oath nobody spoke to me before, but I went and took him by the hand immediately upon my going into the room. The gentleman I point to (pointing to Mr. Annesley) is the same as I knew in Frapper Lane. By virtue of my oath he is the very man. I am positive of it.

Can you mention any particular that makes your recollection so strong?—When the complaints of Miss Gregory to my lord were made of him he used to stand in such a melancholy posture with his eyes bent upon the ground that the idea was so strong that his face came into my memory before I saw him.

Cross-examined—Was Mr. Annesley, when you came into the room with Cook, in that melancholy posture?—No, he was not.

How then could that be a reason of your knowing him?—Because it imprinted his face in my mind that I should know him if I was in America. His face was very familiar to me, because he went for about twelve months to school in my father's yard. I was about twenty-two or twenty-three then. I very often conversed with my lord.

Did you ever hear my lord call him his son?—I never heard him say he was his son pro or con. Lord Altham left Frapper Lane in April or May, 1724, to the best of my recollection, and he went to Inchicore. I believed he carried all his family with him, because I did not go into the house after he left it. I went to France on 27th May, 1724, and returned in the following August, and then I went to Inchicore, but I did not see the child there. In September I again went to France, and did not return till after Christmas. I never inquired for the child after my return from France. I never saw the child

P. Plunket after my lord left Frapper Lane. I know Tom Byrne, the brewer, who lived in Frapper Lane at that time. He lodged at one Reilly's, to the best of my knowledge, and after I returned from France I suppose he lived with his father. I never had any discourse with Tom Byrne about the boy. I don't remember when Mr. John Byrne came back to his brewery in Frapper Lane. I had no intimacy with Mr. John Byrne or his family; we merely lived in the same neighbourhood.

Suppose you had not been desired to go to see Mr. Annesley, do you think you should have known him if you had met him in the street?—Indeed, I believe I should recollect his face, for I believe any one that knew him when he was nine or ten years old would know him this very day.

Amos Bush Amos Bush, examined—I remember when I was in college there was a little boy that seemed to be about ten or eleven years of age who, I think, got his subsistence in the college by running errands. He was called by the name of James Annesley, and a good many people said that he had given himself out to be the son of Lord Altham, but I was not inclined to credit it. That was a great many years ago; I cannot say exactly when. I did not know Lord Altham. The boy's face was very strongly imprinted in my mind, and yesterday morning I said that I should be able to know him, nay, if I was a painter I think I could draw his face without having seen him again. He sent for me yesterday, and I went to see him last night. When he came into the room, by the lines of his face and the memory I had of him, and the difference between a boy's and a man's face, I remembered that he was the boy I saw in the college, and the same that I had as a servant in the college; and I remember I clothed him. To the best of my recollection, I believe this gentleman (pointing to Mr. Annesley) to be the same. I believe he attended me for a month or so. From his insisting on his being Lord Altham's son I was induced to believe it to be true. I wrote to my grandfather that I had taken such a little boy for my servant, and my grandfather wrote back that he was dissatisfied that I should keep such a one for my servant, and desired that Lord Altham might keep his own son. Upon that I discharged him, and went down into the country. I have no doubt that this is the same person. I remember not only the lines of his face, but his eyes, and as soon as he came in last night I said, "Sir, I recollect your face," and he said, "I recollect yours very well, and have reason to remember it."

Cross-examined—When you knew him in the college, and that he lived by carrying messages, was he not reputed the bastard son of Lord Altham?—By his indigent circumstances

some believed he was a bastard son, but from his story, and Amos Beath
persisting in it, I and more were induced to believe him to be his lawful son. He very often said he was my Lord Altham's son, upon which I rebuked him, and said, "You little rogue, how dare you say any such thing as that?" To that he replied, "Indeed I am my Lord and Lady Altham's son." When I inquired into the reason of his being turned out of doors he constantly persisted in the story that Lord Altham kept a mistress, and that it was that mistress that was the occasion of his being turned out of doors. I intended to keep the boy on as my servant till my grandfather desired the contrary. Although I was of opinion that he was a lawful son of Lord Altham I would have kept him on as a servant, because I had no other way of supporting him from penury, as my income at that time would not allow me to keep him in idleness.

Did you at any time make any application to Lord Altham?—I did not know Lord Altham even by sight, nor did I know where he lived.

Why did you not acquaint him with the circumstances of his son?—If I had understood ceremony as well as I do now I believe I should have acquainted his father. I believe the boy had been in the college for about a month before I took him. I do not think he had shoes to his feet. He was considered in the light of a "scull" in the college. I believe I entered college about 1722 or 1723, and I stayed there for about seven years.

Dominick Farrell, examined—I knew the late Lord Altham, D. Farrell
but I never had any discourse with him concerning Miss Gregory. Mr. James Annesley came to me when Lord Altham had turned him off. I cannot tell the year—as I had known him all along from childhood. My dealings with his father had brought him to my knowledge at Dunmaine. I supported him until I gave him up to Mr. Purcell, the butcher, for my wife would not let me bring him home, because I had been a great sufferer by my lord, having lost above £50 by him. I went to my lord at Inchicore after I had supported the boy for a fortnight or three weeks, and my lord desired me to make provision for him, saying that he would certainly pay me, not only what was due to me, but any expense I should be at in providing for him. What I said to my lord was, "There's this poor child, he will be lost, and it is a sin to see him like a vagrant about the town; he is a disgrace to you. Send him to somebody to take care of him." He called the child his son. I went to Dunmaine in 1717 or 1718 for my money and the money Lord Altham owed my brother. This was before the separation of Lord and Lady

Dr. Purcell Altham. I had the child in my arms then in presence of the nurse and my lord. I cannot tell what was the nurse's name. Lady Altham came into the parlour while I was there. The child was considered by everybody as my lord's son and heir by my lady.

Did my lady say anything concerning him?—No other than kissing and hugging of him that I can remember. I also saw the child in the county of Kildare, about a mile and a half from Kilcullen Bridge, but I do not remember the name of the place. Lord Altham had the child Jemmy Annesley with him, the same as I saw with him at Dunmaine. I was in the county of Kildare three or four times. After that I saw the boy in what was reputed to be Lord Altham's own house at Stephen's Green, and then I saw the boy in Frapper Lane when he went to Carthy's school. When I asked Lord Altham to take the boy at Inchicore, he said that Miss Gregory and he could not agree, and that he could not keep him at home. "I shall have no peace," says he, "and must keep him somewhere, and I'll pay you not only what I owe you, but what you shall lay out in taking care of him." After the boy had been with me for some little time he was bare, and I gave him money to buy what he wanted. He did not come near me for three weeks or a month, till I saw him in Smithfield on horseback. I called to Purcell, and asked him if he would take that boy to be the son of a peer or of a nobleman, and he said that he would not take him to be so. "Well, then," says I, "I affirm it to be so; he is the son of my Lord Altham; I know you and your wife to be good-natured people; and I recommend to you as you have but one child, and he'll be a companion to him, to take him home and succour him." He said he would do so if what I told him was true. I said that it was true. "Call him over. His name is Jemmy Annesley." I stepped aside, thinking that if the boy saw me he might not come so readily. He called him, and the boy came over. Purcell asked him what his name was, and he said "James Annesley." Upon that I turned round and asked if I had used him unkindly, and he said no. He then went and delivered up the horse to the owner, and Purcell led him by the hand to his house. I told his wife the story, and she cleaned him and put on a shirt and clothes belonging to her son, and said, "While I have a bit of bread for my own child you shall never want." The reason I did not take him to my own house was that my wife would not suffer him to come into the house. Purcell's wife is not living, but he himself is a mighty honest man in good credit and above the world, a very reputable honest man. I believe my lord's circumstances at that time were very low. He was owing money to other persons besides me. I saw the boy very

often at Purcell's house. I am told that he afterwards went D. Purcell
to Mr. Tighe. I never saw him again till Saturday last, when I saw him at a house in College Green. I cannot tell in whose company he was.

How came you to see him there?—I had a curiosity to see him to know whether I should have forgot the face in so long a time, because a man cannot be positive after thirteen years' time till he sees the object. I discovered him to be the child that I have given this account of. That is the gentleman (pointing to Mr. Annesley).

Do you take upon you to swear this is the same person as you have seen in the several places you have before mentioned?—That is he by virtue of my oath. All the calls I made to Dunmaine were to get the money that Lord Altham was owing me. The money was owing me for a lace head and stockings, fans and ribbons for my lady, and goods for himself. My lord bought those things himself; my lady was not with him. My brother-in-law, who kept the inn where Lord Altham's cattle stood, recommended me to my lord, and by that means he became my debtor.

Cross-examined—I went to Dunmaine either in 1717 or 1718, at the time of one of the meetings of the Curragh, either April or September. I had never seen Lady Altham before I saw her at Dunmaine. I am certain that I saw her there. She was a pretty lusty woman, pretty tall, and pretty well grown. She was not very slender, she was middling, not very tall, but I cannot be particular. As near as I can guess she was a round-faced, plump woman, and I think her complexion was fair. I could not say what colour her hair was. She was dressed as a woman of quality ought to be. I stayed at Dunmaine one night, and went away next morning. I was never at Dunmaine again. I saw a child about a year and a half or two years old along with the nurse. Lady Altham came up and took the child in her arms and kissed him, and my lord was by. I cannot tell whether the nurse was a wet or a dry nurse. I saw the child about five, or six, or seven, or eight o'clock. I never heard the name of the nurse, and I never heard of any person called Joan Landy. I don't know that I ever heard of Joan Laffan. I do not know any person of that name. Some months after I was at Dunmaine Lord and Lady Altham parted.

I was in England seeing my customers every year from 1715 till 1721 or 1722. Upon my oath, I was in England in 1717 and 1718. I could not say whether I went there in the spring or autumn of 1717. When I was at the house in the county of Kildare, the child appeared to be five or six years old. I remember now that the place was called Kinnea. There was between one and two years distance of time between my seeing

D. Farrell

the child at Dunmaine and at Kinnea. The child was in coat and breeches the first time I saw him at Kinnea, and I think he would then be about four or five years old. He had a tutor, but I don't know his name. That was the first time I was at Kinnea, and I believe it was within one year after I had seen him at Dunmaine. The child was in petticoats when I saw him at Dunmaine, and I believe he was about two years old. The next time I saw him after Kinnea was at Stephen's Green; I cannot tell in what year. That was before he lived in Frapper Lane. I do not remember how long ago it is since my lord lived in Frapper Lane. When I saw the boy on horseback in Smithfield Lord Altham had gone to Inchicore. The boy was turned out, as I understood, and there was nothing left to support him in Frapper Lane, as I was told, and then he came to me. He had very good clothes on, and good shoes and stockings. I believe he continued at Purcell's house for about a year or more. He had the smallpox there, and I went to see him very often at that time. I stayed in Dublin for about a year and a half or thereabouts after the child had the smallpox, and then I went to work where I have been for eleven years this Christmas. I think the child came to me before Lord Altham went to Inchicore. I agreed with a master that kept a charity school near Michan's Church to teach Master James, but I cannot say whether he went there. I cannot remember when my lord went to Inchicore, but I saw him about three weeks or a month after the child came to me. The child was with me for two or three months or more before I sent him to Purcell.

Did he constantly lie in your house?—Never at all, for my wife would not receive him. I gave him money to support himself, and I recommended Purcell to take him. I think he continued to stay there all the time till I went to Cork. Lord Altham's debt to me was contracted two or three years after the year 1715, but I could not be very particular, because I do not have my books here.

John Purcell

JOHN PURCELL, examined—I am a butcher to trade. I know Dominick Farrell very well, and I knew a boy that was called James Annesley. I happened to go to Smithfield one Wednesday afternoon, and I saw Mr. Farrell talking to this little boy called James Annesley. The boy was riding on a horse, and when Mr. Farrell saw me he called him off the horse, and told me that he was Lord Altham's son. I said, "May be he is not his real son, but may be another way." "No," says he, "he is his own lawful son." I said he was a poor thing, had he no relations, and where was his father. Mr. Farrell said that his father lived at Inchicore, but that the mistress

that his father kept had put bad things into my lord's head. John Purcell
I went up to the child myself and asked if he was Lord Altham's, and he said he was. I asked him two or three questions, and I said, "If you will promise me to be a good boy I'll take you home to my charge, and you shall never want while I have it." Upon that he fell upon his knees and gave me a thousand blessings. I took him home to my own house and presented him to my wife, and asked her to take care of him as if he was her own child. She then put clothes on him and made him up very grand. When I came back later on I found him in the kitchen with my wife, whom he called "Mammy." My wife and some people that knew the child called him my Lord Altham. He was a considerable while with me, as good a child as ever stood in the walls of a house. He took the smallpox in September, and recovered about the latter end of October. When he was just upon the recovery a gentleman with a gun in his hand and a setting dog came up to my house and asked if my name was Purcell. I said that was my name. He asked if I had not a little boy called Jemmy Annesley, that he was very desirous to see him. I told my wife, but she said that he was not fit to be seen, as he was just out of the smallpox. The child at this time was crying by the fireside, and when my wife asked the reason he said, "The sight of that gentleman that is now come in has put such a dread upon me I don't know what to do with myself." Upon this my wife was very loth to let him come, but I called the child, and he came up and made his bow to the gentleman, who asked, "Do you know me?" The child said, "Yes, very well, you are my uncle Annesley." So he asked him a great many questions, and he said, "I'll let your father know what hands you are in," and I asked him to speak to his father to take him into his charge. He stayed a good while with me; I believe we drank to the tune of three mugs of ale. That (pointing to Lord Anglesea) is the gentleman that came to my house. He said to me, "I don't know whether you know his father or not." "No," says I, "not above any man in the world, but they say he is the Lord Altham's son." "Indeed," says he, "he is." He said he would tell the father that the child was alive and well, and that he would ask him to remit me something that was handsome in taking that care and charge of the child. I said that I desired no gratuity, but I wished with all my heart that his father would take him into his care himself. I never asked him any question about the child's mother.

Did you ask whether he was my lord's natural son or not?—I never put any question, but several people told me he was his natural son.

John Purcell

What do you mean by a natural son?—I mean his real son. Do you mean by his wife?—Yes, they told me he had him by a gentlewoman he brought with him out of England, who was a natural daughter of the Duke of Buckingham. When Mr. Richard Annesley spoke to the child he called him "Jemmy," and he told me that my Lord Altham was the father.

Lord Altham died in 1727. About a fortnight or three weeks after his death Mr. Richard Annesley came into our market, and sent a man for Jemmy Annesley. The man came along with the child to me at the stall, and he said, "My mistress gives her humbled service to you and desires you'll go along with me, for my uncle has sent for me and I am sure it cannot be for any good; I am afraid to go by myself, for I fear he'll use me ill." Upon that I sent the man to the gentleman to tell him that he was coming. I went with the child to the house of Mr. Jones, but before I went in I took a stick in my hand. The child had me fast by the skirt of the coat. When I went into the entry I saw three or four fellows ranked by the wall of the entry whom I suspected. The present Earl of Anglesea, who was then all in black, met me at the kitchen door. When I saw him I knew him, took off my hat, and bade him good-morrow. He just said, "How do you do, Mr. Purcell?" and called to the fellow standing behind my back, "Hark you, sir, take that thieving son of a whore and leave him in the proper place till further directions." I asked him who it was he meant by "a thieving son of a whore," and he said, "Damn me, I am not speaking to you, but to that thieving son of a whore there in your hand." I said, "My lord, he is not a thief." "Damn me," said he, "but I'll send him, the thieving son of a whore, to the devil." "No," says I; "by God you shan't send him to the devil nor his dam neither, for I'll take care of him while in my charge." And with that I got him between my legs and put my arms over him, hugged the child to me, and said, "Whoever offers to do him mischief by all that's good I'll knock his brains out." This was about six or seven weeks from the first time he had seen the child at my house. I asked him then what authority he had to say that he would do so-and-so, and he said that he could not make his appearance at the Castle or any other place but that he was insulted on account of that thieving son of a whore, and for that reason he should not stay in the kingdom. I told him then, "You make a good appearance of a gentleman, and I am surprised that you should show so much revenge and so much malice as to say that you will destroy this poor creature which you will neither support nor maintain." When he found he could not get his revenge

he desired me to go and look for his nurse. I did not know who his nurse was, and I said, "All that he told me is that my Lord Altham was his father, and I don't think myself under any such obligations as to go for his nurse." Upon that I brought the child home and left him with my wife. John Farrell

Were there any more attempts made to take away this child?—There were some attempts made by some constables and bailiffs to take him—the child told me so. I saw one of the constables or bailiffs come into the yard one day, and when he saw me he went out again. The child continued to stay with me till about the beginning of February after, and then he went to Mr. Tighe's, in the Haymarket, on his own accord, without my knowledge. I met him afterwards and asked him why he had left me, and he said that he was ashamed to see so many fellows coming about the house to take him, and so he left it that I should not be uneasy upon the affair.

Have you seen this gentleman lately?—I believe I did. That is the gentleman there (pointing to Mr. Annesley). I know him as well as I know the hand now upon my heart.

Cross-examined—It was in the year 1726 that Farrell showed me the boy in Smithfield. He merely said that he was my Lord Altham's son, and I asked whether he was his real son or not, because I had heard some stories before. I heard at that time that Lord Altham was living at Inchicore, which is a little beyond Kilmainham. I cannot remember particularly the month I first saw him, but I believe it was in April or May. He died in November, 1727. All I know about his death is that the child heard of his burial, and went to see him interred in Christ Church, and came back all in tears. I understood from what people said that the child was Lord Altham's son, and I believed him to be his lawful son from what Farrell told me. To the best of my knowledge Farrell told me that the boy had lived in the house with him, but he was obliged to put him out because he would not have his wife and himself to be at variance.

Did Farrell tell you whether he put this boy to school?—Never any such thing; but I know I had a schoolmaster in the house to teach him to write. I r[illegible]er went to Inchicore to speak to Lord Altham about the boy.

If you believed this boy to be my lord's son, and had so much passion for him, and my lord was so very near as Inchicore, I desire you'll satisfy the Court and jury why you did not acquaint my lord that the boy was in your care?—I assure you I never purposed to ask the child any questions about the affair at all. I was determined to go to see my lord, and made an attempt two or three times, but I was dissuaded from going because they told me he was a passionate little man,

John Purcell

and by reason of the mistress he kept in his house he would not mind shooting me. The child went to the burial about three weeks before I saw Captain Richard Annesley at Jones's house. When I met Captain Richard Annesley I called him "My lord, Lord Altham." I knew that he was the late Lord Altham's brother.

If you knew that he was only the brother, and believed this boy to be the son, how came it that you did not put the boy in mind of his right or give him his right to that title of honour descended to him from his father? Do you not know that an only son succeeds to the title of honour of his father?—I was a stranger to that affair, and not in a condition to go about it.

Did you inquire whether the late Lord Altham had any estate?—Not I, upon my word. I never asked any questions about that affair when I heard that Richard Annesley was called Lord Altham.

Give the Court and the jury an account why you did not put this child upon asserting his claim to the title and estate of his father?—He did not stay very long with me after his father's death, and then he went to a gentleman that I thought better able to inquire about that affair. He stayed with me till about February, but he never said anything to me about any right he had to any title.

Did you apprise any person that you had such a son of Lord Altham's?—I did not.

Did you ever inquire whether my Lord Altham, his father, had left any estate or legacy?—Upon my word I never did.

Did you not know that Captain Richard Annesley assumed the honour and title of Altham?—I did hear so. One day not long after the boy left me I saw him at Mr. Tighe's door. He had a livery on him; Mr. Tighe's, I suppose.

Did you ever apprise Mr. Tighe that that boy in his livery was the son of the late Lord Altham?—I never did.

Give some satisfaction why you would not apprise Mr. Tighe of that matter?—I tell you when I saw that the child had left me so abruptly, and that he would not continue with me, I did not care much to trouble myself about him. I have known Mr. Tighe for many years.

How long before you saw the boy at his door?—I believe I have known him about fourteen or fifteen years. I think at this time he was called Councillor Tighe, but I never spoke to the gentleman.

When this conversation passed between the present Earl of Anglesea and you at Jones's, had you reason to believe that some mischief was intended to the boy?—I did not know what his mind might be, but I did suspect it all along. At that time he said he would get him transported.

If you believe this, and did believe that the boy was the son of Lord Altham, and Lord Altham was dead, why did you not secure this boy from mischief?—I did as much as lay in my power. I did not acquaint any magistrate or anybody else of this, for when I sent him home I thought it was all over. I kept him within for some time, but when he got into ano her's custody I was not accountable for him. I did not see anybody else in Mr. Jones's house but Lord Altham and Mr. Jones. Mr. Jones is now dead. There were two or three constables in the entry behind my back. There was one that was going to seize the child, and there were two or three more who were aiding and assisting. One of the constables attempted to take the child from me, but I threatened to knock out the brains of the first man that should offer to take him from me. I cannot tell how many persons there were at the door. John Purcell

If those persons intended to take that child from you by force could they not have done it?—No.

Had you any to assist you?—I had enough in the market, and said I would lose my life before I would lose the child.

Did anybody come to your assistance?—The people in the market heard it. The butchers came to assist me.

Is there a man living that asked you if you wanted any assistance?—It is of a long standing, and therefore I cannot recollect myself. The boy remained in my house over two months after this attempt.

When you had reason to believe this boy was to be taken from you, why did you not acquaint some magistrate?—That apprehension was not in me so sharp. I thought all things were over. When I had the conversation with Captain Richard Annesley, when he came with his gun, he told me that the boy was my Lord Altham's son. Mr. Farrell told me that the boy was my Lord Altham's real son, natural son.

Did he say real or natural?—He told me natural and real both. I understood he meant a son got by his lawful wife. I am certain that Captain Annesley did not say to me that the boy was my lord's "natural" son. When I saw the boy in a livery I was greatly surprised.

Did you believe then that he was Lord Altham?—It might be so—might might overcome right—but I thought so in my own conscience. When he was with me I treated him with tenderness and affection, and it would have given me pleasure if he had received a benefit.

Why, then, would you not apply for him to receive one?—I was ashamed to apply to any gentleman, for I thought it was none of my business to ask any such question of any gentleman.

Why?—I did not care to interfere. The boy was sharp enough, and he said that he hoped to be Earl of Angleses yet.

John Purcell When you saw him in livery, what was your opinion as to whether he was a lawful or a bastard son?—I was not in that apprehension to ask him then, for I was vexed at his leaving me, because I thought I was as capable to keep him then as before. I never had any discourse with anybody concerning the boy after this, save with my wife. I never saw the boy on board ship, to my knowledge. I know Mr. Andrew Charlton, the attorney, and Christopher Stone. I never told either of them that I had seen the boy on board ship, and that he had refused to come away with me. I cannot tell how long the boy stayed with Mr. Tighe. I intended to keep the child as long as he was pleased to continue with me, and I gave him as good an education as I could.

Did you keep him with a design to disclose who he was, or did you mean to keep him as your own child?—I thought when he came to knowledge himself he would discover himself to Lord Altham. Several knew when he lived with me that he was Lord Altham's son. It was not my way of thinking to make him known. He sometimes went an errand for me. He sometimes called me "Master," and my wife he sometimes called "Mammy" and sometimes "Mistress." He did nothing for his bread when he stayed with me except running of an errand.

Did you ever hear that the boy was on board ship?—I did.

Why did you not then acquaint a magistrate with it?—As the boy had left me, I never gave myself any trouble. I knew Jones perfectly well before that time, and I never knew him to be anything but an honest man. After that he used to go mad about the streets, and cry that he was undone by my Lord Altham.

Do you know whether Jones would have consented to have had an innocent boy taken away by force?—I cannot tell, for my lord used to frequent his house, and I don't believe he would interfere either one way or another. I cannot tell what his thoughts were. It would be about a year or two after this transaction that Jones ran mad about the streets. There was no ill-usage from me that occasioned the boy going away from my house. When he was with me he never went to school, but I had a man to teach him in the house. He stayed out all night on three or four occasions.

I think you said that you apprehended that constables or bailiffs were haunting about your house in order to take this child?—I saw a suspicious fellow open the latch, and when he saw me he went out and flew like a buck.

Was not the child in as much danger at Mr. Tighe's as with you?—As to that, I cannot tell.

When the boy left you did you suspect that anybody had taken him away?—I never made any inquiry.

Evidence for Plaintiff.

Fourth Day, Tuesday, 15th November, 1743.

Silcross Ash

Silcross Ash, examined—I was acquainted with the late Lord Altham, but I did not know that he had any child or reputed child. I did not know Mr. James Annesley till the first time he came into this kingdom, which was about a twelvemonth ago. I never saw him to my knowledge before that. I know the defendant in this case. Immediately after the burial of the late Lord Altham I was in company with the present Lord Anglesea. A gentleman told him that there was a boy at the burial that made a very great noise, and called himself the son of Lord Altham, upon which the defendant got into a passion and called him an impostor or a vagabond, or something of that sort, and said that he deserved to be transported. I cannot positively say that he called him a bastard. Shortly after that I was again in company with the defendant, and a person came in, either one Cavanagh, the dancing master, or Wilkinson, persons who used to be about the late Lord Altham. One of them said that he had been with Mr. Hawkins, King-at-Arms, and that Mr. Hawkins had refused to enrol his lordship on account of the rumour occasioned by the noise that the boy had made at the funeral of the late Lord Altham. Upon that the defendant was very angry, and made use of some indecent expressions against Mr. Hawkins. He repeated that the boy was an impostor or a vagabond, and I said that if he were an impostor or a vagabond then there were ways and means to punish him for it. To the best of my belief the word "bastard" was made use of. He repeated that the boy deserved to be transported. I said that if he was a vagabond then the method to follow was have him indented at the Tholsel. I remember when the messenger told the defendant that Mr. Hawkins refused to enrol him I said that the reason might be that Mr. Hawkins expected his honorary fees, whereupon his lordship said that if that was all he would go and satisfy him.

Did he mean that he would satisfy Mr. Hawkins as to the fees or as to the rumour, or both?—As to both. His lordship afterwards took his seat in the House of Peers. I do not know of any steps that were taken to get rid of the boy. I never heard the defendant say that he was transported, but some time after I heard him say that the boy was gone. That was all he said. I cannot recollect what was the occasion of defendant's mentioning to me that the boy was gone. I do not remember who were present on that occasion. He said it in an easy manner, without any heat.

Cross-examined—I never heard of the boy until the time after the late Lord Altham's funeral. I have dined with Lord

Silvester Ash

Altham at Inchicore. I never heard him mention anything about a son. I never heard him say who was to inherit his honour and estate. I always apprehended the defendant to be the presumptive heir of the late Lord Altham in his life-time. The general reputation was this, that the late lord and the defendant had executed deeds in reversion. I never drew or read any deed executed by the late Lord Altham. It was commonly known that he died intestate, and I myself took out letters of administration for the present lord. I believe it would be less than a year after the person came from Mr. Hawkins when the defendant said that the boy was gone. That was said in a tavern, and there were three or four present at the time, but I cannot remember who they were. They were gentlemen that he was intimate with. I was never consulted by his lordship as to any method of transporting the boy. I was the person that he advised with chiefly about his affairs at that time. He reposed entire confidence in me then.

Mark Byrne

Mark Byrne, examined—I have known the defendant for a long time. About fifteen or sixteen years ago, when I was a constable, I met another constable, John Donnelly, in Charles's Street, Dublin. He told me he had a very good job to go upon, and was to get a guinea for doing it, and he desired me to go with him. I accordingly went along with him to Jones's house in Ormonde Market, where the defendant, who was then called Lord Altham, was. There was a small boy there who, my lord said, was his brother's son. My lord charged the boy with having stolen a silver spoon, and he desired Donnelly and me and the others to take him away. We took the boy away till we came, to the best of my knowledge, to George's Quay, where the boy was put into a boat. My lord went along with him, and Donnelly, and some others that I do not know, went into the boat and sailed down the river. I parted with them there, and would not go any further. The next day Donnelly came to me and gave me a shilling. I demanded part of the guinea from him, and he told me he had not got it. I have never got any more of the guinea than an English shilling. On our road to the Quay the boy cried, and that made a mob gather. The boy said he was afraid that my lord would either kill him or transport him. He called him his uncle. When the people heard this they followed, but there was nothing said by anybody in order to prevent his transportation. I never saw the boy again till he sent to inquire for me. There was a coach got at Essex Bridge, into which Donnelly, the boy, and I went, the others following. My lord was at George's Quay as soon as the coach. Neither Donnelly nor I had any staves as constables, but we

were publicly known to be constables. We had no warrant, [illegible] so far as I saw.

Cross-examined—When we went to Jones's house it was daylight. I believe it was in the spring. We saw the boy in the kitchen, along with my lord and some others. This was the first time I knew my lord. We would not be there for half an hour before we brought the boy away, because we were ordered by my lord to take him away directly. I did not know what my lord was going to do with the boy, but when I saw him going down the river I began to be afraid, and I went no further. I apprehended that it was not anything that was right that was going to be done with him. There was nothing said as to what was to be done with the boy. I was not surprised that my lord should take his own nephew into custody for stealing a spoon. When we came to the boat I apprehended that there was something to be done to him, but I could not tell what was meant to be done. I believed they were going to send him over sea.

Did you not know, supposing the boy was guilty of the fact, that it was unlawful for anybody to transport him without a trial?—I did believe it to be so, but I did not acquaint anybody with it afterwards. I was not well acquainted at Jones's house. I cannot tell what sort of clothes the boy had on when we took him away. Donnelly is now dead. I cannot tell what year this happened. I believe I had been more than two years a constable at that time. When Donnelly told me he had a good job he did not tell me anything about it, but was determined to execute any job I was paid for. I cannot tell whether there was any servantmaid or woman in the kitchen of Jones's house when we were there. I cannot tell whether Mr. Jones was in the kitchen. I had seen the defendant several times in Dublin before that. I do not remember what dress he was wearing. When we took the boy away I knew where we were to carry him to.

Were you not surprised as to what could be the meaning of this?—I cannot tell what was the meaning any further than I have told already, that I was surprised when I saw the boy put into the boat. I cannot tell what instructions Donnelly had. We walked towards Essex Bridge, and there we got a coach. Donnelly directed the coachman to drive to George's Quay.

Did you apprehend then that you were doing a good act or not?—By virtue of my oath, I could not tell what to think of it. I was along with the others putting the boy into the boat. I went along down the steps of the place with the boy and Donnelly till they went into the boat. I did not touch the boy. Donnelly went into the boat, and then my lord and a servant

Hart Byrne James Reilly followed. To the best of my knowledge, Reilly was in a livery, but I do not recollect what livery it was. He was not in black. I did not see Reilly till I saw him on George's Quay. I stayed upon the quay till I saw the boat go off, and I saw them row down between the walls. I cannot tell how the tide was. I did not stay to see them pass the point.

Did they row to a ship between the walls or beyond the walls?—I did not take notice of any one ship more than another. I know John Purcell, the butcher, very well. He was not at Jones's house that day, to my knowledge. I saw him often after that, but I never spoke to him of what had happened to the boy. I never heard that the boy lived with John Purcell. I never related this matter to any person till I was sent for and examined. I cannot tell what colour of clothes my lord wore. We put the boy into the coach to keep him from the crowd. I did not see my lord when we went into the coach; I did not see him till we got to George's Quay. He was dressed in his usual way. I would be on the quay not a quarter of an hour before the boy was put into the boat. Purcell kept his stall in Beef Row, and Jones's house was in the same row. I believe I passed by Purcell's stall, but I did not see him, to my knowledge. I was examined before the Commissioners.

Did you ever acquaint anybody of what passed the day that the boy was put on board the boat till you were examined before the Commissioners?—Mr. Annesley sent for me and asked if I remembered such-and-such things. I cannot tell how the boy came to Jones's house. Mr. Annesley sent one MacClane for me as being one of the constables.

Did you tell him your name when you carried him to the slip?—No.

How came he then to know your name?—I cannot tell.

Do you know that he is the person you sent down to the boat?—I would not for the world take upon me to say that he is the person. The boy cried all the way down to George's Quay. I did not hear him say on the quay that he was apprehensive of being killed. I was not acquainted with any one of the mob there. The mob at no time endeavoured to take the boy away from us. I did not speak to any of the mob, although there were several asking what was the matter.

Why would you not tell?—Indeed, I was afraid.

James Reilly James Reilly, examined—I live in a house of my own in London. I know the Earl of Anglesea. I was for about eleven months his servant about fifteen or sixteen years ago. The late Lord Altham had been dead about three months when I came to live with the present earl. I left Sergeant Green on

Arran Quay upon New Year's Day, and about a fortnight after James Reilly that I came to live with my Lord Altham. When I had been with him for about a month or five weeks I was several times employed by him to go and look with some constables for James Annesley. I went along with Jack Donnelly, Bryan Donnelly, Mark Byrne, and Patrick Reilly. Reilly was no relation of mine. These men were all constables.

What was it that my lord said to you when he desired you to go?—He said that if we took him any ways to bring him into some alehouse, and to send for his lordship as soon as possible. I went five or six times with these constables in search of the boy. I only saw Mark Byrne once along with the other constables; I saw him along with the boy at George's Quay when the boy was sent on board ship. We looked for the boy in Newmarket, Smithfield, and along the quays. One day I was sent for by my lord to George's Quay. When I came there he whispered me to go and borrow a guinea for him. I borrowed it from Mrs. Kelly at the "Butcher's Arms," and returned to my lord at George's Quay and gave him the guinea. I saw my lord give the guinea into Jack Donnelly's hands, and then Donnelly went away. There was a boat at the slip, and Byrne, Donnelly, and Mark Byrne came with the child, who was immediately put into the boat. My lord, Brian Donnelly, Jack Donnelly, the boy, and I went into the boat and rowed to a ship that lay down the river as far as Ringsend. No one went on board but my lord and the boy, and he cried very bitterly. I do not know whose ship he was put on board, or what the name of the ship was. The boy did not say anything at all.

I had been acquainted with the boy since he was six years old. I first knew him at Stephen's Green, and then at Lord Altham's house in Frapper Lane. I never knew anything to the contrary but that he was my Lord and Lady Altham's son. There was a relation of mine, the housemaid, called Catty Fury, that took care of the boy. I have heard the present Lord Anglesea very often say, when people used to affront him for destroying the boy's birthright, that he would be even with him, that he would take a course with him. I have heard people cursing after my lord as he went along for taking the boy's birthright away. That was while I lived with my lord, and both before and after the boy was gone.

Cross-examined—I came over to Ireland three weeks ago last Sunday. I have not been a servant these four years. I know Lord Barrymore very well. I was never a servant of his, but I believe I shall be as soon as I return, because my lord promised me the first vacancy. I expect to be his house steward. Upon my coming here to give evidence his lordship gave me a protection because I owed some money here. In

James Kelly

that direction I am called a servant, but I am not Lord Barrymore's servant as yet. It was in the afternoon that I went down to George's Quay. It was in the springtime, and the daylight was going. When we came back from the ship it was duskish. The ship lay in the river as far down as Ringsend. I think it took about an hour and a quarter between the time we left in the boat and the time we came ashore again. My lord was first to go into the boat, and then Jack and Bryan Donnelly, and the boy. Two more went in after them, and I was the last to go. I cannot say whether I have seen these two persons since. I had been acquainted with Mark Byrne for eight or nine years before this. Lord Altham lived at Inchicore when I was his servant. I was a livery servant at that time. I cannot remember the month that the boy was put on board, but I should think it would be about two months after I entered my lord's service.

I ask you upon your oath if you can recollect whether at any time, either in March or February, while you lived with my Lord Altham, you ever saw Mark Byrne?—I saw him several times, but I had no great acquaintance with him. I only asked him the time of the day or some such thing. I saw him on Friday last, and also on Saturday and Monday, but we had no discourse as to anything I knew relating to the transporting of Mr. Annesley. He did not ask me what had brought me to Ireland. He did not ask me any questions, so far as I know. I saw Mark Byrne on George's Quay the day that the boy was put into the boat. I don't know what became of him; he did not go along with us. I did not see him after coming back from the ship. The boy was with Mark Byrne and the two Donnellys when I first saw him. I did not see them till they were standing at the slip. My lord and the boy came to the slip within two minutes of each other. I cannot tell how long he had been there before I saw the boy. I have heard nothing of Mrs. Kelly these twelve years. My lord gave the guinea to Donnelly in less than half a minute after I gave it to him, and Donnelly went immediately for the boy and brought him to the slip. I cannot tell how the Donnellys and Mark Byrne came to the slip. I cannot tell whether they came on foot. I cannot say whether I saw a coach or not. There was a very short distance of time between my lord's giving the guinea to Jack Donnelly and Donnelly's coming to the slip. It would not be an hour—I cannot say what time it would be. It was after two o'clock when I went for the guinea, and I came back about three o'clock as near as I can guess. I should think that I would be at the slip three or four minutes before the boy was brought there, but I cannot tell exactly. I do not know where Jack Donnelly was sent to for the child. My

wages with Lord Altham were to be £4 a year. I cannot tell what colour of clothing the boy had on that day. James Reilly

Did you understand for what purpose the boy was brought to the quay?—The Donnellys told me that my lord had granted a warrant against him for stealing a silver spoon.

Had you ever any conversation with the defendant relating to the purpose of the boy's being brought to the quay?—I had, in order to transport him abroad. I knew that from my lord several times when he gave me several shillings to spend with the constables. I knew that that was not a lawful act. Before I went to borrow the guinea I knew that it was to be given to the constables to engage them to bring the boy to be transported.

How could you that knew this to be unlawful assist in it?—I was obliged to do what my master bade me. When my lord employed me to search for the boy he desired me to go about Smithfield and the market, and the long meadows of a Sunday.

When he sent you to seek out this boy, did he not tell you he was at one Purcell's, a butcher?—Yes; my lord bade me take care of the Ormonde boys, because Purcell would alarm them, and they would attempt to take him from us. This was in the spring following the death of the late Lord Altham. I do not know where the boy was got. The Donnellys did not tell me. When I went to my lord first he had a lodging in town, but I cannot tell whereabouts it was, as I was in the country house. My lord used to dine at Inchicore, and he had company there. I think I have seen that gentleman's face (pointing to Mr. Silcross Ash). I worked in the garden when I went first, and then I got the clothes of another servant that had gone—a blue frock I think it was. I cannot speak to my lord's clothes, because he kept them himself. I don't remember anything particular about his dress. I never wore black clothes when I was in my lord's service. I remember Mr. Derensy and Mr. and Mrs. Kennedy dining with my lord while I was in his service. I cannot tell how my lord was dressed the day the boy was put on board. I believe he was not in full dress. The day I was on George's Quay I wore my lord's livery, blue lined with red. There was no one else in the boat with the same livery. I had seen the boy a hundred times from the time I had seen him in Frapper Lane till he was brought down to the slip, but I never saw him after my lord gave me directions to look for him. I saw him wear a livery, Mr. Tighe's, I believe. I believe that was after the late Lord Altham died, but I cannot say positively. The late Lord Altham died before I left Mr. Green's employment. I cannot say whether it was before or after I left Mr. Green's employment that I saw the boy in a livery. I saw him very often in the livery. He was dressed in the same livery on George's

James Reilly

Quay. I don't remember the colour. I don't know where Donnelly found the boy. I asked, but he did not tell me. I never heard Lord Altham say where Donnelly found him. My lord turned me out of the house about two o'clock one morning. My lord coming home one night to Inchicore from Dublin, I had wrapped myself up in an old blanket and seated myself on a chair close on the inside of the gate, so that I might wake the easier when my lord came home. My lord having words with the coachman who drove him home, I opened the gate to hinder him running the coachman through the body, as he threatened. On seeing the chair and the blanket at the door my lord charged me with an intent to rob him, to which I replied that, if I had any such intent, I would hardly have thought of carrying away an old blanket and a chair not worth a groat. Thereupon his lordship fell into a great rage, stripped me of my coat, waistcoat, and breeches, and in that condition turned me out of doors, though it was a misty night, threatening, with many oaths and curses, to send me to Kilmainham Jail if I did not get away from the door that instant. I, having got some clothes at Dublin, went next day to my lady and desired her to intercede with my lord for my wages and three guineas that I had laid out for him. My lady promised to intercede for me, and gave me 7s. to buy shoes and stockings. My lord, hearing of this, issued out his own warrant, and got me taken up by a constable for the 7s., under pretence that I had defrauded my lady of the money under false colours. Rather than lie in jail, I paid the 7s., and was thereupon discharged. I was never paid my wages by my lord. I was so afraid of his lordship that one day, when I was living as a servant with Lord Mountjoy, seeing my lord come in there, I hid myself for fear of him. I knew the boy since he was six years old. I could not tell how old he was in Frapper Lane. It would be a good while more than a year that I would know him before he went there. I first knew him at Stephen's Green. He was then about six years old.

George Babe

George Babe, examined—I am an officer in the Custom-house, and have the honour to be clerk of the ships' entries of the port of London, inwards and outwards. I find by the books in my office that, on 18th April, 1728, the "James," of Dublin, burthen 100 tons, Thomas Hendry master, entered outwards for Fial, in Philadelphia, and this entry was made by Mr. James Stevenson, who was one of the merchants that entered the goods. When a ship enters outwards they swear to the place which they intend to go to. After the entry is made they take their own time for going, but they cannot go without making their entry.

Evidence for Plaintiff.

Andrew Crossey, examined—I knew the late Mr. James A. Crossey Stevenson. I served as his clerk for thirteen years, having gone to him in June, 1720, and left him in September, 1733. Mr. Stevenson was a merchant, and he often traded to the West Indies. He sent checked linens to Philadelphia, but chiefly servants. There used to be advertisements published giving notice of the time a ship was to sail for Philadelphia, whereupon servants came to Mr. Stevenson's house. When an agreement had been made there was an entry made in his books, and when the ship was ready to sail the persons were brought down to the Tholsel, and they were indentured before the Lord Mayor. They all went voluntarily. Several young boys of twelve or thirteen years of age, and some younger, used to come and indent before the Lord Mayor. I can, to the best of my knowledge, say that every person's name was taken before the ship sailed, and entered in Mr. Stevenson's book. I used to make the entries, but the particular entry in question was made by Francis Skellern, who is now dead, but with whose handwriting I am very well acquainted.

[The book was admitted to be read by consent. The title of the entry read was—"An account of the men and women servants on board the ship 'James,' which went over the barr the 30th April, 1728."] Then there follows a list of the men and women servants and passengers. James Annesley is entered as a servant, the name being spelt "Ansley." The servants are distinguished from the passengers by being put in a column by themselves. I believe this is an exact list of the servants when the ship went over the bar. Care was always taken to see that every person in the list was actually on board. The persons on board at the time the list was called over were not asked any questions as to whether they were indentured or not.

Cross-examined—Mr. Stevenson dealt in this trade of sending servants to America while I was with him. I remember the ship being here in 1728. I don't remember whether any of the servants were put on board the ship while she lay within the walls. The servants went to be examined before the Lord Mayor, and if they were under age he inquired where their parents were and whether they went voluntarily or not. I never heard of any person that was sent on board by force. Mr. Gonne, the town-clerk, takes the account of the persons indented. We sometimes clothe the servants when we send them on board ship. We take an account from the master or the mate whether any person on board the ship goes as a passenger or as a servant.

Do any persons go aboard as servants that you don't carry before my Lord Mayor?—There are several persons that have gone abroad who have been sent by Mr Hawkins from the

A. Gregory

county. If they were of the city we always used to take them before the Lord Mayor. The master or the mate may tell the clerk that a person goes as a servant though such person has not been indentured, but I cannot say that that is done. I never knew of any person being sent who was not indented either by the Lord Mayor or Mr. Hawkins, but it might have been done without my knowledge. I cannot tell whether Thomas Hendry, the master of the ship "James," is dead or alive.

When the clerk takes down the names of the persons, if anybody on board complained and was unwilling to go, would you carry him?—I could not take him from on board ship without my master's directions; I could not prevent his going.

If that person said, "I am not indentured, and will not go," would you suffer him to go and put him down in your list as one of your servants?—Yes, I would, for I must enter him down in the list and make a return to my master. If I went on board as clerk to take an account of the servants, and a man who was called upon as a servant declared he was not a servant, I would look to see if there was any indenture binding him.

And if you found no indenture would you still enter him as a servant?—Yes, he must be entered as a servant to be there.

If such a thing happened, could you stop the ship?—I could not. No persons go in the capacity of servants without indenting, to my knowledge, but they may do so without my knowledge, for the master may carry such persons if he pleases. Skellern was an honest man. I knew Hendry very well. He was an honest man at first, but he turned out a very great rogue, because Mr. Stevenson lost £4000 by him.

Do you think the master of that ship could have signed over any person in America without appearing in the indentures?—I cannot tell what the master might do. The master might have servants on board without my knowledge, or Mr. Stevenson's either. The master returns an account to his master of the sale of the servants. I believe there was never any return made of the voyage in question. Neither I nor any of the clerks had any directions given us concerning James Annesley any more than any other person.

Henry Gowne

Henry Gowne, examined—I am the town-clerk of the city of Dublin. I produce a book called the Indenture Book, which contains a list of persons indented before the Lord Mayor. I believe there are no persons indented whose indentures are not entered in that book. The book begins in May, 1699, and contains the entries for the year 1728. The name

of James Annesley is not found among the names entered to Henry Gunne Thomas Hendry between 21st March, 1727, and 26th March, 1728, but it appears that one James Hendly was indented on 26th March, 1728. I believe the name of James Hendly is in my father's handwriting. James Hendly was bound for seven years. The town-clerk does not attend when the persons are indented. The method generally is that either the merchant or the master of the ship brings a list of the persons to be indented to the Tholsel Office. He leaves that list in the office, and the indentures are filled up afterwards. The list is given to the town-clerk from time to time, according as the people are indented.

RICHARD TIGHE, examined.—Mr. James Annesley lived with me for some months while he was a boy. He came to me in a very poor condition from one Purcell, a butcher, that lived at the back of my house in Phœnix Street. He was as low in clothes as he could be. I cannot fix the time when he came to live with me, but it would be some time after Christmas in the year 1727. My son fetched him before I knew of it, partly out of charity, I believe, finding him in a low condition and turned off by his father, who was reputed to be Lord Altham. He would be about thirteen or fourteen years old when he came to my house. He continued to stay with me till he was transported. Richard Tighe

Do you remember the time of his leaving you?—It was done by stealth; I was told that he was carried off from me. While he was with me he wore a yellow livery waistcoat, which had been formerly worn by my son's servant. I never saw him after he left my service. Shortly after he left I was told by one Peter Murphy that he had seen the boy on board a ship. I have never spoken to my Lord Anglesea that I know of in my life. I gave the boy no occasion for quitting the house. The boy was reputed to be the lawful son of Lord Altham who died in the November before the boy went away. I am a person bred to the law.

Did you or did you not, after the death of this boy's father, take any steps to assert his right as son to his father?—None at all. I did not trouble myself about him, as he was so short a time with me. If he had stayed some time with me I might have taken some steps. I have seen James Annesley since he came over, and I am fully persuaded that he is the person that lived with me. I heard no more of the boy after his leaving Dublin, a matter of fourteen years ago, till I received a letter about him from a friend in Jamaica while Admiral Vernon was in the West Indies, in which he related the troubles and misfortunes that the boy had gone through.

Richard Tighe Mr. Reilly, an agent for the present Lord Anglesea, applied to me for the letter on behalf of his lordship, saying that he would return it again. It is still in their hands. A clerk of Mr. Colthurst, who I heard was at one time concerned for my Lord Anglesea, came to me with an affidavit to swear that James Annesley was a bastard. I did not ask this clerk's name, but he told me that he was with Mr. Colthurst. I said I would swear no such thing as that James Annesley was a bastard. James Annesley left my house some time in April, 1728.

Cross-examined—I had never heard a word about this boy when he was at Purcell's, and when he came to me he came by stealth. I never saw Purcell till yesterday. I do not recollect any particular person that told me that he looked upon the boy as his lordship's son. Although he was in very low circumstances when he came into my house, I believed him to be Lord Altham.

If you were fully persuaded of that, would you have clad him in an old waistcoat that was taken off another boy?—I would, indeed, for he wanted it greatly. He was employed in the lower offices of my house, and attended on my son.

Did you not know at that time that the present Earl of Anglesea took upon him the title of Altham?—I did, but I knew little of him. I do not remember saying to anybody that the boy was the real heir of Lord Altham, and that the present earl had no title. If you had thought so would you not have mentioned it to somebody?—I never did, for he went soon after from me, and I heard no more of him for fourteen years. My son is dead. When the boy came to my house he was just out of the smallpox, as appeared from the redness of his face. I don't know whether he had shoes and stockings, but the servants told me that they had washed him in a tub to make him clean. I believe they had stripped him of his bad clothes before they showed him to me. I should have been at a great loss to know what had become of the boy had it not been for another boy, Peter Murphy, that went down to the ship, and lived with me afterwards. I was sure he was kidnapped by the account I got from Peter Murphy, who said he saw him on board, that he found him roaring and crying, and saying he was forced away by his uncle. I made no inquiries about the ship, nor did I make any application with respect to the boy. I never spoke of the matter to any magistrate.

Did you not know it was a crime to take him away?—No doubt it was.

Did you not look upon it to be your duty, if you thought him to be a real peer of this land, to make a proper inquiry about him?—I never had any right to inquire into it.

I desire an answer to my question?—I had nothing to say to it, and therefore I never did think I had any right to stir in it, for he was only with me a few months. I did not know that I should ever see him again, and therefore I was not going to put myself to trouble and expense about the matter. Do you think it would have put you to sixpence of expense to have given an account of this to the Lord Chief Justice?—Yes, I believe it would. It might have brought me into a scrape or given me a good deal of trouble. I don't know where it would not have ended. Would not my Lord Altham have risen in arms against me? He would have been in a great rage, and no boy here to produce. I knew Arthur, the late Earl of Anglesea, but I was not thoroughly acquainted with him. I can't say in what state of friendship he was with Lord Altham, the father of this boy. I got no account of the boy being on board the ship except from Peter Murphy. Peter Murphy went away about ten or twelve years ago. Richard Tighe

John Broders, examined—I dwelt in Pennsylvania, in America, fourteen or fifteen years ago, and I saw Mr. Annesley there. My brother and I were travelling on the road one cold morning, and we went into a house to warm ourselves. As we were there a boy came in with a gun in his hand and a dead squirrel. He said he was servant to the man of the house, and he told us that he came from the county of Wexford. We told him that we both came from that county, and were glad to see him, and asked him his name. He said that he was Lord Altham's son, and he described the situation of Lord Altham's house at Dunmaine. I have not seen that person again since I saw him in Dublin twelve months ago. To the best of my knowledge, it is he that gave me an account of the house of Dunmaine, and of who was his father. When I saw him in Dublin he told me on what side of the road his master's house was in Pennsylvania. John Broders

Can you take upon yourself, either from your converse with him or the remembrance of his person, and by face of the gentleman that was shown to you here, to say whether he is or is not the same person as you saw in America?—I cannot swear that he is the same person.

Did you ever tell to any person about your having met with such a gentleman as Mr. Annesley in America, and what passed between you?—I told it on board the ship in America before I came home. There are people in Dublin that can say that they heard me tell it above ten years ago.

John Gifford, examined—I know the plaintiff, Mr. James Annesley. I do not know when it was that he arrived in England from the West Indies. John Gifford

John Gifford Do you know of any prosecution carried on against the plaintiff by the defendant for murder?

[This question was objected to on the ground that what had taken place in a previous case could not be evidence in this one. After some argument the question was postponed till the next day.]

Abel Butler Rev. Mr. ABEL BUTLER, examined—I am curate of Tyntern, in the county of Wexford. The Parish Church of Dunmaine goes by the name of Owenduffe, which is united to the parish of Tyntern. I have known this parish for eleven years next January. There are no books in either of the parishes wherein the births or christenings of children are registered.

J. Barton JOSHUA BARTON, examined—I was very well acquainted with the late Lord Altham, and often ate and drank with him. One particular night I was in his company at Inchicore till about four o'clock in the morning. I was free with him that night, and asked him if he would not be angry if I said something to him. He said that I could say what I liked, and so I asked, "Is that young lad that you let ramble up and down and suffer to want your son?" "Yes," says he, "he is my son by my lawful wife." And then he told me that on account of a woman that he kept he could not do anything for him, because she would not suffer him about the house. I don't know the name of the woman that he kept. I don't know what circumstances my lord was in at this time, but he had some pension from the Crown—some said £200 and some said £100 a year. This conversation took place about a year before he died. I believe he was needy enough, because I know when he kept a pack of hounds in the kennel one hound would eat another.

Cross-examined—At this time my father lived next door to Inchicore House, and I used to go to see him. I saw that the boy was in a very poor condition. He lay in the hedges up and down to see if the servants would give him a bit.

How long was this before my lord died?—A year or two years—a good while, I cannot well tell. I never spoke to my lord about this boy on any other occasion. I very often gave the boy something to eat and drink. I believe he was in that poor condition for three or four years before my lord's death. I believe my lord lived at Inchicore for six or seven years before he died.

For how many years did the boy continue about Inchicore after you first observed him?—I believe for a good while, but I cannot tell how long. I believe I would see him there within the year before my lord died. He went to several people in the town, and then he would be back now and again. I believe the

boy would be in that poor condition for two years after I spoke to my Lord Altham. I frequently saw my Lord Altham. J. Barton

And yet you say you never spoke to him again about this boy?—I never did. Would you have me go to speak to such a man as that? He knew his own business best. I never saw any relation of the family dine with my lord when I was there. I am certain I asked him whether the boy was his lawful son.

Why did you say lawful?—Because he took no care of him. I do not remember what o'clock it was when I asked this question, because I had no watch with me, but I remember it was four o'clock when I came home that night, because I looked at the clock at home. I once before sat up so late with my lord. At other times I left him whenever I could get away from him. It was towards the latter end of the evening when I asked the question. My lord was not drunk, for he came into the fields to see me go away. This took place in the summer time. I know that I was not drunk, because I came home well enough.

Fifth Day, Wednesday, 16th November, 1743.

[The question of the admissibility of Mr. Giffard's evidence being received was resumed, the objection being that Mr. Giffard, as an attorney, was bound to keep the secrets of his client, and ought not to be permitted to disclose them. After a prolonged argument, the Lord Chief Baron said that the Court wished to hear what the witness had to say relative to his being an attorney. He was accordingly called.]

John Giffard, examined—I am an attorney of the Common Pleas in England, and a solicitor of the High Court of Chancery. I know the defendant, the Earl of Anglesea. In the year 1722 he employed me to assist him on a particular occasion to make his defence in the case of the King against him as Richard Annesley, Esq. I was also employed in the same year when an action was brought against him at the suit of one George Risden. From the year 1722 till he became Earl of Anglesea I never heard of him. In the year 1737 I met him in London, and he desired me to solicit an affair between him and his countess that lived at Biddulph. John Giffard

Name the cause?—Between the Right Honourable Morris Thompson, Lord Haversham, and the Earl of Anglesea. I was concerned in another cause the same year in connection with the late Earl of Anglesea's will. I was concerned in a number

John Gilbard

of other causes, the Earl of Anglesea *v.* Mrs. Simpson, the Earl of Anglesea *v.* Henderson, and the Earl of Anglesea *v.* Rachael Cooper. I issued out writs against Henderson at the suit of one Banks by Lord Anglesea's directions, and I was also sent for and commanded by my lord to solicit and carry on a prosecution against the plaintiff, Mr. Annesley. I have not been concerned in any other cause for the Earl of Anglesea since the prosecution of Mr. Annesley. I was retained by the Earl on the 2nd of May, 1742, to carry on the prosecution for murder. The conversations that passed between me and my lord were from 7th December, 1741, to the time of Mr. Annesley's being discharged at the Old Bailey. The bill of indictment was found against Mr. Annesley in June, and he was admitted to bail in July. The murder was laid in the indictment on the 1st of May, 1742. I was not concerned for his lordship in any other causes than what I have before mentioned, and they were all determined.

Was not the conversation before 2nd May on some affair in which my Lord Anglesea consulted and advised with you as his agent or solicitor, designing to employ you in that affair? —No, it was not, for I did not expect to be employed by him again, he having employed Mr. George Garden and Mr. Adam Gordon, attorneys. I received my instructions in a great part from them. My lord ordered me to take directions from them, and I have instructions under Gordon's own handwriting.

Had my Lord Anglesea those conversations with you relative to the plaintiff between 7th December and 2nd May as intending to employ you or not? I never was employed or intended to be employed in any suit for or against him during that time. I first received instructions from Messrs. Garden & Gordon the first week in May. I had no instructions from them except what were relevant to the prosecution in relation to the plaintiff.

Did you charge Lord Anglesea with any term fees in the year 1741 relative to particular suits?—I believe I charged 10s. 4d. for Lord Haversham's suit. I find that cause was concluded before the Easter term came.

Were you concerned for Lord Anglesea from the latter end of November to the beginning of January, 1741?—I was concerned in issuing out some writs.

Do you not think, if any suit had depended on them, you would have been concerned?—I don't know but what I might.

Counsel for the defendant objected on the ground that an attorney shall not disclose anything whatsoever in a collateral question that shall affect the property of the client.

After an argument, the Court stated that they were of opinion that the witness should be examined.

Evidence for Plaintiff.

Examination continued—I know the present Earl of Anglesea and Mr. Annesley. Some time between the 7th December, 1741, and May, 1742, my Lord Anglesea had an appeal to the House of Lords in England between Charles Annesley and himself, and, having that suit and a good many others, he was very uneasy at it. He said he would be very glad to send to the present plaintiff, and, if he would give him £2000 or £3000 a year, he would surrender up to him the titles of Anglesea and Altham and the estate, and go over to France and live there, and then he would be much easier and happier than to be tormented with those people that were suing off him, for he would rather his brother's son should have it than any other person. He said that, if Jemmy had the estate on those terms, he should live much happier and easier in France than he was here, where he was tormented by law, that it was his right, and he would surrender it to him (for he did not value the title) rather than that Frank and Charles Annesley and those that were striving to take it from him should have it. He added that he would send for a gentleman to teach him the French tongue to qualify him to live in that kingdom, and accordingly he sent for one Mr. Stephen Hayes, an officer in the French service. My lord had him in the house a considerable time on purpose to converse with him in French. I saw him there forty times. That conversation took place about March, 1741, and he continued in that resolution till May, 1742. John Gilbert

What altered that resolution then?—Why, on 1st May Mr. Annesley had shot a man at Staines, upon which my lord sent for me and ordered me to go to Staines to inquire into the affair, to collect the evidence and carry on the prosecution, and to follow the directions of Messrs. Garden & Gordon, with the assistance of one Mr. Jans, who was a surgeon. I accordingly did so. Three or four days after my lord told me that they had consulted together, and had advised him not to be seen to converse with me, for it was not proper for him to appear in the prosecution for fear of its hurting him in the cause that was coming on between him and the plaintiff; and that he did not care if it cost him £10,000 if he could get the plaintiff hanged, for then he should be easy in his titles and estates. My lord told me that I should apply to Mr. Jans, who would from time to time supply me with money, because he had ordered him to do so, and accordingly I had money from him. Mr. Jans was my Lord Anglesea's companion, manager, and agent, and managed everything for him.

Cross-examined—I had the first conversation with the defendant as to his desiring Mr. Annesley to be sent to some time before 10th March, 1741. I don't know where Mr. Annesley was at this time, but I believe he was in England.

John Gifford Do you know for what purpose it was that my lord said these words to you? Was it with an intent that you should apply to Mr. Annesley?—No, I don't believe it was.

Do you know of any steps that were taken in order to get this accommodation that my lord desired?—I don't know of any.

How soon after this 10th of March, 1741, was it that you first saw this Frenchman with my lord?—Near about that time, but I cannot tell exactly. He was not a Frenchman; I believe he was an Irish gentleman, a tenant's son of my lord's.

Did you ever hear anything of my lord's applying for an accommodation?—It was very often talked in the house that one Mr. Paterson and one Mr. Mackercher should be sent to. I know of my own knowledge that no steps were taken towards an accommodation. The notes that I have been referring to to-day are notes which I wrote at the time the different transactions happened. The reason I was sent for to carry on the prosecution under Messrs. Garden & Gordon was that I had been a coroner myself in the county of Devon for twelve or fourteen years, and I was therefore thought to be a proper person. I went on with the prosecution till there was a verdict. I attended the coroner's inquest and collected evidence, and drew the brief. The indictment was found on the inquest of the coroner, who took the examinations of the witnesses short, as memorandums. The bill was found upon the evidence of the son of the deceased and others *viva voce* before the grand jury. I was told that Sir Thomas Reynolds took some examinations in writing, and I applied to him for them, but he refused me. I applied to him a second time for them, and he told me he had consulted with Sir John Gonston, and that no examinations should be shown till they were produced in Court. Most of the witnesses examined before the coroner were examined before the Court on the trial, and a great many more. A matter of forty people were examined. My brief was framed from the examinations of witnesses that I took myself. The case upon the trial differed vastly from that which appeared upon the examinations before the coroner. The finding of the coroner's jury was wilful murder. The case against Mr. Annesley was stronger upon the coroner's inquest than it was upon the trial, because the main evidence was taken off on the trial.

Had my Lord Anglesea any hand in taking off the main evidence?—No.

Who then took it off?—It was the prisoner who took it off; the evidence of the chief witness for the prosecution was rendered invalid. His evidence was given in Court, but it was discredited in Court by reason of his character, and there was a strong reason given for it by a witness Paul Keating, who was for the prisoner. The main witness that swore against the plaintiff

on his trial was John Egglestone, who was brought to me by one Williams that keeps "The White Horse" tavern in Piccadilly, when he varied from the evidence he had given before Sir Thomas Reynolds. I was not present when he gave that evidence, but it was declared so in Court. The deed for which Mr. Annesley was prosecuted was committed at Staines about one or two o'clock in an afternoon. It appeared to have been done in a meadow, and at the trial it appeared there were present John Egglestone, John Fisher, John Bedsworth, and one more, I think. John Gilbert

Were there any other of the witnesses that appeared on that prosecution that were discredited on account of their character than Egglestone?—There was a variation in their testimony, but that they were discredited for their character I cannot say. The trial, I believe, was held on 14th July, 1742, and the coroner's inquest was held on 4th May, 1742. When my Lord Anglesea said to me that he did not care if it cost him £10,000 to get the plaintiff hanged, I understood that it was his resolution to destroy him if he could. I did not advise my Lord Anglesea not to carry on the prosecution; I did not presume to undertake to advise him. When he said that he did not care if it cost him £10,000 if he got the plaintiff hanged I don't know what answer I made, and I can't say that I either approved or disapproved of his expressions and design. I went on as effectually with the prosecution afterwards as I could. I advised my Lord Anglesea not to appear upon the trial.

Since my lord had told you that he would agree with the plaintiff and go to France and disappoint Charles Annesley, how came you not to tell him that if he hanged this pretender it would frustrate his designs and the expectations he had?—In answer to what you say (that if the pretender, as you call him, were hanged there would be a greater fund left than £2000 or £3000 a year to go abroad with), it certainly would destroy that project of disappointing Mr. Annesley, but then it would put a greater estate in his own pocket.

Was it not the intention of the prosecution to disappoint the Annesleys?—No, the intention was to put this man out of the way that he might enjoy the estate easy and quiet.

When my Lord Anglesea said that he would not care if it cost him £10,000 so he could get the plaintiff hanged, did you apprehend from that that he would be willing to go to that expense in the prosecution?—I did.

Did you suppose from that that he would dispose of that £10,000 in any shape to bring about the death of the plaintiff?—I did.

Did you not apprehend that to be a most wicked crime?—I did.

John Gilbert

If so, how could you, who set yourself out as a man of business, engage in that project without making any objection to it?—I may as well ask you how you came to be engaged for the defendant in this suit. I cannot remember whether it was before or after the coroner's inquest that my Lord Anglesea told me that he did not care if it cost him £10,000 to get the plaintiff hanged, but it was then or thereabouts. The inquest was held on the 4th of May, and I came home on the 5th, and I believe it would be that day, because my lord met me at Hounslow in his coach and six to know how things went on. I have made memorandums about my business, but I have never entered in writing private conversation in any company.

Was it not upon the day he sent for you to go down to Staines that he said these words?—I cannot say more than I know. I believe it was not; I believe it was after or just upon holding the coroner's inquest.

Did you not understand from that that he would lay out that money in any shape to compass the death of this man?—I cannot tell. My lord is very apt to be flashy in his discourse.

Did you not apprehend it to be a bad purpose to lay out money to compass the death of another man?—I don't know but I did. I do believe it, sir; but I was not to undertake that bad purpose. If there was any dirty work I was not concerned in it.

If you did believe this, I ask you how you came to engage in this prosecution without objection?—I make a distinction between carrying on a prosecution and compassing the death of a man.

How came you to make that distinction?—I may as well ask how the counsel came to plead the cause. I never mentioned to any of my counsel that my lord had made that declaration.

If you had told any of them that my lord had made that declaration, would they have appeared for you?—I cannot tell whether they would or not.

Do you think any honest man would?——

Mr. Baron Mountenay—An attorney might think himself well warranted by the verdict found upon the coroner's inquest to prosecute and not think it a bad action.

The Witness—I believe they would, or else I would not have carried it on, sir. I do assure you it is the only cause I was ever concerned in at the Old Bailey in my life, and it shall be the last.

Cross-examination continued—I believed then, and I believe now, that my lord's engaging in that prosecution was because the man set up a title to his estate, and not on account of his killing the man at Staines.

Do you not believe it was an unlawful purpose?—I cannot

help that. I was employed by the church warden of Staines to prosecute. I should not have been concerned upon any account whatsoever had I not the sanction of the coroner's inquest for wilful murder, which I thought a justification of the prosecution. The church warden wrote me a letter, dated 8th May, 1742—"Pray prosecute James Annesley," &c., signed "Stephen Bolton." John Gifford

Was not this after my lord declared that he would spend £10,000 to get him hanged?—It was. I don't know of any money being given to any witness to appear and give evidence. About half a crown a day was given for their attendance. If there was any dirty work, I knew nothing of it. The prosecution cost £800, and the total remaining due to me is £330 odd. I do not believe anybody was present when I had this conversation with my lord. We used to converse together alone frequently. Mr. Jans was never present.

Was Thompson Gregory present when he went and brought you to my lord?—He came with me, and he remained in the room. This was on 2nd May.

Had you that day any discourse about the sum of money that my lord would spend?—Not that day. It was on the advice of Messrs. Garden & Gordon that the letter was sent to me by the church warden of Staines.

Were you privy to it?—Yes, I was. This letter was advised in order that the defendant might not appear in the prosecution.

Did you not know that this was to give a colour?—I did.

Did you think this was for a good purpose?—Messrs. Gordon, Garden, and Jans and Lord Anglesea had a consultation, and it was thought proper that I should have another person to my assistance, because they would not appear, and my instructions were to send this order to the church warden and get it signed, so that my lord should not appear in it. The reason was that if my lord should appear in it they thought it would be attended with ill consequences.

Did you know at the time of the trial that Mr. Annesley intended to sue for the title and estate of Lord Anglesea?—It was reported that he intended to do so, and this was in order to prevent it. If Mr. Annesley gains this suit I shall lose every shilling of my bill of costs. I am very well acquainted with Thomas Smith, the cabinetmaker.

Had you any discourse with him about this evidence that you have given to-day?—I have had some discourse with him about it.

Did you not tell him that you had been ill-used, and that that provoked you to give in this evidence?—No, I never did, for he knew that I had been ill-used. I'll tell you what I have said to him—that it was a wrong step for my lord to have taken, for this bill of costs of mine would never have come to

John Gifford

light had I not been obliged to sue for my right; that my lord had filed a bill in the Exchequer in England against me to disclose what business I had done for him, and that I was obliged in my justification to annex in a schedule my bill of costs.

Did you not look upon my Lord Anglesea as your real client in the prosecution of the plaintiff?—He promised to pay me, but I did not look upon him as my immediate employer, because he told me he had directed Mr. Jans to employ me. I looked upon Mr. Jans as my client at this time.

Do you not believe that my lord had these discourses with you as his attorney?—No, for I knew I was never to be concerned in the cause. I looked upon it to be discourse with me as a friend.

Was not the discourse with you on 4th and 5th May as his attorney or solicitor?—I looked upon him to be my client.

And therefore did he not look upon you as his solicitor?—I cannot tell what he did.

Did he meet you as his friend or solicitor?—Sir, there was another man with me.

Were you not employed by him to see the inquest held?—I was. I wish you would produce any person to attempt to prove that I am a dishonest man. I have had a great many clients in the course of twenty odd years, and I certainly look upon it as a rule of prudence and honour for attorneys to keep religiously the secrets of their clients. I should think that if a solicitor or attorney discloses those secrets he is a very bad man.

How then came you to disclose this secret?—I would not have disclosed this if I had not been obliged to do it by my lord's filing a bill in the Exchequer to disclose what business I had done for him. My lord is a man subject to passion and heat, and he is hasty and rash in his expressions.

At the time when he talked to you about giving up these things to Jemmy was he not chagrined and in a passion?—He was far from being in a passion, and he asked my opinion whether it was proper for him to do it.

Was not the reason he gave this, that he did not value his titles, and should live easier in France?—It was.

Was it a conscientious scruple or his desire of ease?—I believe it was both. The reason of it was that he was extremely angry with the Annesleys because they pulled away money too fast from him.

Was not this said out of the effects of his chagrin at this time, or out of spleen to Charles Annesley?—No, I believe he said it for his own sake, for his own advantage, because the cause then coming on with the present plaintiff made him desirous to be easy. I cannot tell whether there was any inter-

course or treaty set on foot between him and Mr. Annesley. John Gifford
I have heard Mr. Jans several times advise my lord to leave the three kingdoms.

In your answer to the bill in the Exchequer did you insert that declaration that my lord made you?—I wonder you would ask that question. It has no relation to the bill. I swore before the examiner in London that my lord made that declaration. I also mentioned it when the managers of Mr. Annesley came to me to know if I knew anything of this matter.

What managers?—Mr. Mackercher, Mr. Paterson, and two or three more. I was served with a subpœna. They applied to me to go to Ireland, and said that I must go, and they asked if I was to give them the trouble of sending me a subpœna. I told them I would not give them the trouble.

Did you not say that you would not have given evidence here except you had been forced to it?—Why, sir, is not that a force? If a man applies to me and says he will subpœna me, must not I obey that subpœna? I have heard my Lord Anglesea say fifty times since the first discourse between us that this pretender, as he called him, was transported for stealing a silver spoon. I cannot recollect any of those fifty times, but it was between 7th December, 1741, and 14th July, 1742.

Upon your oath, did you ever hear my lord say that the plaintiff was a bastard?—Yes, I have heard him say he was his own bastard, and I have heard him say that he was his brother's bastard. I have heard him say that he got the wench with child, and made her lay it upon his brother, because he was better able to maintain it than himself.

Did you hear him say that as often as you heard him speak of the silver spoon?—That is not possible for me to charge my memory with. I have heard him say both very often. When he said he got him transported he said he stole the silver spoon.

Was any one present when he said this?—Yes, I will tell you one, one Rolph, who said he was in bed with her along with my lord. Rolph was one of the company at my lord's lodgings in Bury Street.

What was it my lord said then?—"What do you say to this," says he, "here's Rolph says he was in the bed at the same time, and knows the pretender is a bastard." I believe this was at the same time as when my lord mentioned the stealing of the silver spoon.

Counsel for the Plaintiff—My lords, we have many other witnesses to examine for the plaintiff, but we rest here now with liberty to produce other witnesses if occasion there be when the witnesses for the defendant are examined.

Evidence for the Plaintiff closed.

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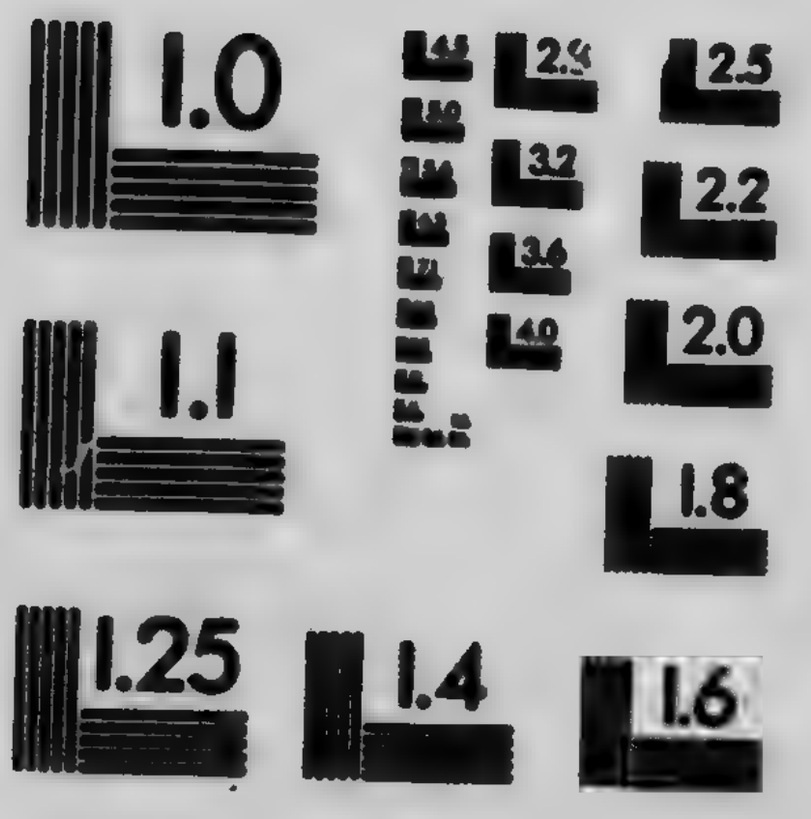

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Evidence for the Defendant.

The Attorney-General opened the case for the defendant.

N. Loftus

Nicholas Loftus, examined—I have lived at Loftus Hall, in the county of Wexford, for above thirty-five years. Loftus Hall is about 8 miles from Dunmaine. I have heard that my Lord and Lady Altham lived at Dunmaine, but I never visited there. I know the place called Ross very well. I never heard of my Lady Altham's ever having had a child while she lived at Dunmaine. My wife was living at that time, but she did not visit at Dunmaine, nor did Lady Altham visit at my house. I never heard of any rejoicings at Ross or anywhere else on account of the birth of any child that my Lady Altham had.

Was it the reputation of the country that my Lady Altham ever had a child?—I never heard it. Lord Anglesea's estate in the county of Wexford is reputed to be worth about £4000 or £5000 a year. I had a very slender acquaintance with Arthur, late Earl of Anglesea, and I can give no account of the terms on which he and the late Lord Altham lived with one another. I cannot recollect where I was at any particular time in 1715, but I had no call that would take me from my house unless it was to Parliament. I believe I was at home in the summer time. Lady Altham was shown to me in a window once at Ross, and I was told it was she.

Cross-examined—In 1712 I was in England, and I came over here in the beginning of 1713. Lady Bessborough died in May of that year, and after that, and for a good part of 1714, I stayed at Bessborough at the request of Lord Bessborough. In the year 1715 I was fixed in my own house at Loftus Hall.

T. Pallisar

Thomas Pallisar, the elder, examined—I knew the late Lord and Lady Altham. I used to live at the Great Island, 2 or 3 miles from Dunmaine, where Lord and Lady Altham resided. They were often in my family, and I was in theirs from the time they came to the county of Wexford till they left it.

I ask you whether my Lord Altham had a child by anybody or no?—I heard that he had a child by Joan Landy, but never by Lady Altham, and I am satisfied in my conscience that Lady Altham never had a child at Dunmaine. I am positive of that, because I saw her so often, and I never knew her sick an hour all the time she was at Dunmaine. We would be visiting once a week or once a month, sometimes more and

sometimes less. Very often they desired my eldest son to go to Dunmaine to divert them on Sundays when they came from church, and very often he played the truant to go there. I never heard that Lady Altham was with child, directly or indirectly, nor was it ever so reputed. I never knew her to keep her chamber except when she had no mind to see some ruffians of people that used to come to her house. By the virtue of my oath, I never knew of her keeping her chamber on account of any indisposition. I never in my life heard that she had miscarried. If she had miscarried, I am sure I should have known it sooner than any one else. She very often came to the church at Kilmackee. I never observed by the appearance of her body that she was with child, nor did I ever hear such a thing from any man or woman. I am aware that my lord and lady separated, but I cannot tell the exact time. It is said that they were about two years and more together at Dunmaine. My lady remained at Ross for about two years and a half after the separation, so far as I know. Ross is about 3 miles from Dunmaine. I never heard Lord or Lady Altham say anything about their having or not having any children, but I heard that there was a boy got there by Joan Landy. I am satisfied that my lady could not be brought to bed or miscarry but I and the whole neighbourhood must have known it, because of the visits between her and the whole neighbourhood. She was visiting not only with us, but with the best people in the country. I am sure that while my lord and lady were at Dunmaine there was never a month passed without my seeing either one or the other, if not both of them. To the best of my judgment, I was never two months without seeing my lady, but I cannot take it upon me to say that I was not six weeks without seeing her. T. Palliser

In all the visits that you ever made, was any child ever presented to you as the child of my Lady Altham?—I never heard it from man, woman, or child, by the contents of the Book I have now taken. I knew a woman called Joan Laffan. She was a servant with us, but I had to turn her off for whoring.

Do you take her to be a woman to be believed upon her oath or not?—Upon my word, not one of the country will give her the credit to be trusted with a potato. She is an infamous woman.

You must not go into particulars. Answer as to her general character. Is she to be believed on her oath?—By the virtue of my oath, I don't believe she is to be believed. I do not think she is to be credited, and really the whole parish have that opinion of her.

Cross-examined—I believe I lived in the Great Island in 1713, but I cannot be positive. I was living backwards and forwards

T. Palliser from the barony of Forth to the Great Island. I was building then in the barony of Forth. I might have been a fortnight or three weeks at my building in the year 1714. I don't think I was six weeks together there, but I will not take it upon me to swear to the time. I was in the Great Island at Christmas in the year 1714. I cannot recollect where my Lord and Lady Altham were at Christmas, 1714.

Did you visit them from 1st September, 1714, to 1st November, 1714?—I can only say that from the time of their coming into the country to the time of their going out of it I visited them.

Upon your oath, did you see Lord and Lady Altham at any time in the month of May, 1714?—I can only tell you that I visited them from the time they came into the country till they left it. I believe the barony of Forth, where I was building, is about 18 miles from Dunmaine. I had 1000 acres in the barony of Forth which I let to tenants, keeping only 50 or 60 acres in my own hands. I have never stayed for six weeks in the barony of Forth unless I had the gout. I purchased the land there in 1712, and I began building about a year or two after. I built a little now and then. I was never confined there with the gout for two months.

You say you never stayed there two months at any time?—I can't be positive as to the year 1714. I cannot recollect the time of the separation of Lord and Lady Altham. I remember that there was a dispute about my son then, and he was ill-used, but I don't remember anything else.

Did you see Lady Altham in May or June or July, 1714, anywhere?—If they were at Dunmaine I saw them. I know Captain Briscoe, but I never knew his wife, although I might have seen her. I don't know that I ever saw any of Captain Briscoe's daughters. I have heard that Captain Briscoe brought my Lady Altham to my lord. I first went to live at the Great Island when the Duke of Ormonde sold the first part of his estate in Ireland. I was living in my house there in the year 1713. I cannot tell whether my acquaintance with Lady Altham began before or after the death of Queen Anne, but I am positive I knew her from the time she came to live at Dunmaine until she left, although I cannot tell the year that she came.

Did not your knowledge of this lady commence within these six-and-twenty years?—I first knew her when she came to the county of Wexford, let that be when it would. I am certain that as soon as Lord and Lady Altham came to Dunmaine I saw them. I think I visited them before they visited me, and they had been in the country only a very short time then. I understand that Captain Briscoe brought Lady Altham to Dunmaine House, and I paid a visit, I believe, in a week's

time. I did not see Captain Briscoe, but he certainly brought her there. Captain Briscoe was an intimate acquaintance of mine.

T. Palliser

When you heard that Captain Briscoe had come to Dunmaine, did you go there to see your old acquaintance?—I believe I did not. I suppose I would have other things to do, and could not go. To the best of my remembrance, it was in the summer time that my lady came to Dunmaine. I cannot say whether it was before or after harvest, and I cannot tell what year they came. I believe they stayed there for two or three years without going away, unless for a visit to Dublin. I think my lady came to town with my lord when he came to Parliament. I do not think they were three or four or five months away from Dunmaine, because I think it was at the latter end of Parliament that they came to Parliament; they came towards Christmas.

Did they not stay two or three months in Dublin?—I cannot tell. I paid but one visit to Lady Altham during that time, at Temple Bar, opposite to Dirty Lane. I had seen her several times before this. I cannot say how long they stayed there. I cannot tell how many years they had lived at Dunmaine before I saw my lady at Temple Bar, but, in the whole, they lived there two or three years. I don't believe I was for three months together in Dublin in my life, except when the regiment quartered there. I never heard from any person that Lady Altham miscarried.

Might she not miscarry without your knowing it?—I believe I must have heard of it as well as if she had got a child. By the virtue of my oath, my lady was never sick in bed for a month at Dunmaine. She might be a week sick at Dunmaine for aught I know, but she was never reputed to be with child. If she had been in bed for a week I should have heard of it. I was intimate with all the neighbours that visited her. I never knew a visitor to stay a month there, but I am of opinion that, if any had been there for two or three months, I should have known of it. I don't remember, nor do I know, of Captain Briscoe's wife and daughter staying there three months. If they had been there it is very likely that I would have been acquainted with them.

Why is it that you said that Joan Laffan was not to be believed upon her oath?—I know no more than this, that she was a girl at my house, and was turned away for ill-fame.

Did you ever know that this woman foreswore herself?—I believe, if it was put together, that many things she said could not be credited by anybody. I was never present when she was upon her oath. I did hear that she was examined in our country, and sent to England in a dress when she had not the wherewithal to cover her nakedness. I have never heard

T. Pulliew

that she was guilty of perjury. I know Dennis Redmonds, and I had a conversation with him lately; I knew Captain Pigot very well. He sometimes lived at Tyntern, and I believe he was there when I lived in the island. I knew his wife, and I saw her once as a visitor at Dunmaine. She lived about 4 or 5 miles from Dunmaine.

Might not a woman miscarry in two years and a half at Dunmaine and you know nothing of the matter?—I cannot tell.

Might not my lady?—I don't believe a word of it. We never saw any signs at any time. I do not know whether Captain Briscoe's daughter would foreswear herself or not. I don't believe that my lady could have miscarried in the two years and a half at Dunmaine without my knowing of it some time or another. I believe I was in Dublin at the time of the Rebellion in Scotland. I was then in Parliament, and I took particular notice of my Lord Altham at that time in Dublin, because he had lately lost one of his eyes. I never saw him at Dunmaine after he had lost his eye. Dennis Redmonds was a servant with me when he was a boy. I believe he was a servant in Lord Altham's family, rubbing the horses' heels or some such thing. The last time I saw him was about a year ago, when he was sent to me by one Mr. Orfeur. I said to him that I heard that he was to be one of the witnesses, and I asked him what he had to say in the affair. He told me that he had nothing further to say than that he was sent to Ross for a midwife, and that he dropped her at the gate, but he did not know for what cause or for what reason, or for anything else. I said to him, "What child is this that was talked of to be my Lord Altham's," and he said, "Everybody knows that." I told him that his coming here would be of no use either to the one side or the other, and he replied that, even if he was pressed to go, he would not appear at all. I did not speak to any of the other witnesses for the plaintiff but Redmonds.

You say that you never saw Lord Altham after he lost his eye?—I never did say so. I said that I had never seen him at Dunmaine after he had lost his eye at Dunclody. He never lived at Dunmaine after he lost his eye.

Sixth Day, Thursday, 17th November, 1743.

William Wall

WILLIAM WALL, sworn to the *voire-dire*—I purchased a lease of some lands in the county of Dublin from the late Lord Altham in 1724, of which I never got possession, they having been sold by his lordship to Sir Arthur Langford, on which

account I got a note from Lord Altham for £50 that is yet unpaid.

William Wall

[Counsel for the plaintiff objected to the competency of this witness as being a person under bias, but the objection was repelled.]

Examined—I was acquainted with the late Lord Altham and his lady from the year 1716 till the time of his death. I do not think that Lady Altham had come over to Ireland when I first knew his lordship. I was employed by him on several occasions in my profession of an attorney. I believe, when my lady came over to Ireland, they lodged at Mrs. Vice's house, in Essex Street, opposite to my house. I don't know how long they stayed there. My lord afterwards lived with my lady at Dunmaine, and I was frequently there. I never heard that my lord had a child by my lady. As there was great intimacy between us, I think he would have told me if he had had a child. I was employed by my lord in 1725 to draw a case on his lordship's title under the wills and codicils of James Earl of Anglesea, which I carried to counsel, and they gave their opinion that, if my lord had a son and of age, and such a son would join with my lord in levying a fine and suffering a recovery, then his lordship might dock the entail and sell the reversions of such part of the Anglesea estate as he thought fit. I said that it was a pity that he had not a son. He never told me that he had a legitimate son, but he often wished that he had one. He told me some time after the year 1725 that he had an illegitimate son. I never had much discourse with him about that son. I saw the boy, and I blamed my lord for not giving him better clothes and for not taking care of him. I never saw the boy in my lord's presence. I saw him in Ross, and they told me that he was my lord's illegitimate son. My lord never told me so, but he said he was doubtful, and, if he thought he was his own son and that he had got him, he would take more care of him. I believe this would be about 1727 or 1728.

Did he give you any particular reasons for his doubt of this child being his?—He said that many other men had to do with her, naming Joan Landy. He said that to me in Ross, to the best of my memory.

Did you ever see this boy?—I cannot say that I saw him, but I saw a boy in the street that they said was my lord's natural son. I saw this boy in the street at Ross facing Brehon's tavern. I believe he would be about six or seven years old. I cannot say whether Lord Altham was any time at Ross when I saw this boy there. He looked just like a poor, common boy about the street. I knew Arthur Earl of Anglesea. He and Lord Altham did not agree at all to my knowledge, and I always understood that the enmity continued

William Wall till Lord Altham died. I don't know whether there was

T. Pallis intercourse between them in a friendly way, but I have he that Lord Anglesea would not see him. I do not of my knowledge know what became of the Altham estate on death of Lord Altham. I know the present Lord Anglesea Sometimes he and his brother were on good terms, and som times they were not. I knew Lady Altham, but I did not vi her when she lodged at Mrs. Vice's. When I went to Du maine I saw my lady there, but that was very seldom. don't think I would be at the house more than twice befo they parted. I do not remember in what year they parted I never heard of any discourse of a child by m lady, nor do I remember of ever seeing any child in the house My lady had not the appearance to me of a woman being with child. I never heard that she had a child by my lord while she lived with him. All I ever heard was that my lord left no legitimate issue; but I heard some years ago that a gentleman in the West Indies claimed to be his son. I heard that my lady had a child by one Mr. Segrave in Holland, but that was before she came to my lord. I heard that after she came over to Ireland, and I further heard that the child was dead. Lord Altham never told me what induced him to take my lady back again. I would not be able to know the boy again that I saw at Ross.

Cross-examined—I do not recollect of having more than one discourse with Lord Altham about this child. It would take place in one of the years between 1724 and 1728. I believe it was after I took the opinion of counsel on my lord's case. I did not know the boy that I saw at Ross. When I saw the boy at Ross I believe Lord Altham was living at Dunmaine. I don't know whether Lady Altham was living with my lord at that time or in Dublin. I do not think I was at the house of Dunmaine that time I was at Ross. I was very often at Ross; I was there every year from 1707 till 1720. I believe it was Edward Brehon who told me who the boy was, and said that he was a natural son of Lord Altham. Brehon is still alive. To the best of my recollection, I had no discourse with my lord about that son before I took the opinion of counsel in 1725. The counsel gave their opinion in 1725, and my lord wished then that he had a legitimate son. Some time after I taxed him that he had a son, a beggar in the streets of Ross, and I asked him why he did not put some clothes upon him. The answer my lord gave me was, "If I was sure he was mine, or my own getting, I would take care of him," and named Joan Landy. I think that conversation took place some short time after I saw the boy at Ross. I often went to Ross in company with my lord. I don't know whether he and my lady were living together at that time. I first acted for Lord

James Annesley

(From a line engraving by Bickham.)

Altham some time before 1720. I believe I saw Lady Altham William Wall before that. Lord Altham was very poor when I took the opinion of counsel, and could have sold to more advantage if he had had a son than if he had not.

AARON LAMBERT, examined—I knew the late Lord and Lady Altham when they lived at Dunmaine. My lord took Dunmaine House and lands from me about the year 1711, and my lady first came to live there about two years after. She continued there with my lord for two years and a half, as near as I can remember. During that time I lived mostly at Ross. I lent my lord £500 on his first coming into the country. It is impossible for me to tell how often I saw my lord and lady at Dunmaine, but it would be every week, and sometimes twice a week. I was frequently there because my lord was always in my debt, and I was always dunning him. If my lady had had a child I must have known of it. I never even heard that she had a child, nor did I ever see any child about the house. They kept it private from me if they had any. When my lord was in Dublin I was ill, and for conveniency of an extraordinary good surgeon and the benefit of the air I went to Dunmaine House, where Joan Laffan was, and also one Taylor as steward. I stayed there for two months, and this woman attended me. That was a considerable time after my Lord and Lady Altham's separation. The surgeon was one Sutton, who came over from England with Lord Altham and lived at Dunmaine. When I lived that time at Dunmaine my Lord Altham had let the house to a Mr. Uniack, who did not come there till the following May. I heard that Mr. Sutton had been in the Mint in England, and broke jail and came over with Lord Altham. I suppose he came on account of his debts. When Lady Altham came over to Ireland she went to Dunmaine, and found that Sutton drank too much of her wine, and so she had him turned out of the house, and he went to live at Ross. I believe it would be two or three months after my lady came to Dunmaine that he was turned out of the family. One time when I was dining with Mr. Sutton he went to the door, and then he told me that one of my lord's servants wanted him. He did not go that time, because he had patients in town. He was sent for a second time, but would not go. The third time I saw the chariot come for him, and he went away in the chariot. He attended my lady for about a fortnight, to the best of my recollection. I believe my lady first came to Dunmaine about two or three years after my lord came there. Sutton was sent for about three or four months after my lady came, about two months after he had been turned out of the house. He was angry at my lady

A. Lambert

A. Lambert

for having been turned out, and would not go the first two times he was sent for and said, "Damn her, she has used me ill, and I'll be even with her and keep her in punishment."

I do not know a place called Farreen between Wexford and Dunmaine. I was born at Dunmaine, and lived there until I let the house to Lord Altham. I never heard of any such man as Brooks, a surgeon. There is a family of Brooks in the county of Wexford, but I know nothing of them at all. As I have mentioned before, Joan Laffan attended me for two months while I was under the care of Sutton. As for her general character, she was both a whore and a thief. Nobody would believe her, in my opinion, if she swore all the oaths in the universe. I don't remember Joan Laffan during the time my lady was at Dunmaine, as I believe she was obscure in the family. I never at any time saw her taking care of any child. I was at Ross the day that my lady came at the time of the separation. It was duskish when she came. We all turned out to see her come. She came in a four-wheeled carriage with a pair of horses, and there was a woman in the carriage with her called Mrs. Heath. I don't think the candles were lighted at that time, but I am not positive. I know that I stayed out a considerable time waiting to see her. She put up at Captain Butler's, but I never visited her after she came to Ross.

I heard that my Lord Altham had a natural child, but I never saw him nor inquired about him. I know a woman called Joan Landy. Her father came to me as a cotter a year or two before Lord Altham came to Dunmaine. He had two daughters, Joan and Elizabeth. I saw Joan about Dunmaine House in Lord Altham's time, but whether she was a servant or not I could not tell. Her sister went into the county of Kildare, and if she is still alive she goes by the name of Dunn. I do not recollect her husband's Christian name, but he lives within 2 miles of me. I never heard Lord Altham speak of Joan Landy.

While I was acquainted with Lord Altham I was very intimate with the defendant. He and Lord Altham sometimes lived as brothers and sometimes as enemies. I never heard my lord say that he had had a son by my lady. I never heard my lady talk of having a son.

Do you know the occasion of the disputes between Lord Altham and the present earl?—I assure you the least thing in the world would make a dispute. I remember at one time I met Mr. Annesley in Ross out of humour, and I asked him what was the matter with him now and he said, "Why, damn that Moll Sheffield, she has turned me out of the house on account of my principles." I was once in the house when

they differed about a dog or a hound. The late Lord Altham was possessed of most of Ross, and after his death Arthur Earl of Anglesea enjoyed it. I have seen my Lord Anglesea's receiver receive the rents there. The general reputation of the country is that Lord Altham died without lawful issue. I believe my Lord Anglesea enjoyed the Ross estate from the time of the death of Lord Altham to his own death. I cannot exactly tell when Arthur Earl of Anglesea died. A. Lambert

Cross-examined—By virtue of my oath I was at Dunmaine at least once every two months after Lord and Lady Altham came there. I believe I was not so much as three months away from them at the time, but I am not certain. I was an officer in General Langston's regiment. I was married in the year Lady Altham came over. I lived for three months with Alderman Jones, of Waterford, but while I was there I went every fortnight or three weeks to Dunmaine, which is about 5 miles distant. I entered the army the year Lord Altham came to Dunmaine. The first year I was quartered at Ross, and we were quartered there three times in four years. The officers used to do duty for a fortnight, and then they could go where they pleased. In 1715 I was in Dublin, but I was not there the whole time. I am certain that I never stayed three months in Dublin without going into the country. I never stayed three months at any quarters without seeing Dunmaine. With regard to the £500 that I lent to Lord Altham, I was paid the bulk of it by his agents, but some of it remains still due. Mr. Sutton was very much affected with the gout when I knew him. I remember the death of Queen Anne, but I do not remember in what year it was. I cannot tell where Langston's regiment was quartered when the Queen died, but I remember our going into mourning.

Were you quartered in Dublin?—I cannot recollect, because I have been ill these six years, and I cannot very well remember.

Has not that sickness impaired your memory?—It has not as to the particulars I have offered, but it may have if it be too much stretched. As my country has been abused, I thought it proper to come to town, for I aver that I would not have come out of my country for any consideration, but as I saw this out-of-the-way affair, though I was to come in a horse litter, I would come to testify the truth. I do not remember in what barracks or place I was in any one year from the death of the Queen to the year 1720. I know Paul Keating. The last time I saw and spoke to him would be about half a year ago.

Had you and he any conversation concerning Lady Altham's having a child?—Why, lord, we looked upon him to be a minister for some people, and many used to ask him several

A. Lambert questions about my lady. I had my joke with him as well as many others, but never to have any familiar conversation with the man, or to let him have any secret off me, I give you my word. I had no conversation about my lady's having a child, for I took particular care of him, as I did not like the man.

Did you not tell Keating that my Lady Altham might have had a child without your knowledge, because you were often absent with your regiment?—Indeed I never did. I told him it was next to impossible that she could be brought to bed without my knowledge, because of my tenants being all about her and me. I believe Lord and Lady Altham stayed here one Parliament winter. I cannot say whether I went to Dunmaine in their absence. I knew Colonel Dickson—he was married to my mother—and I lived with him for some time at Colvirstown, which is near Kilcullen Bridge, but that was before I was in the army. When I was quartered at Athy I used to go constantly to see my mother, and then I would go from there to Dunmaine.

Was there not a great fondness between you and Lord Altham?—I tell you, sir, he was inconsistent; he would be fond of a man one day and be out with him the next.

Did you frequently stay all night at Dunmaine?—I declare I never lay three nights in the house, because it was near my own. I had frequent disagreements with him, but then we made it up again. On one occasion he wrote to the Government to break me, alleging that I was going to set fire to his house, when I was in my own, but he afterwards met me when I was coming out of the castle and invited me to dine with him. I knew Captain Southwell Pigot's father, who lived at Tyntern. I also knew Mrs. Pigot. She might visit Dunmaine, but I never saw her there in my time. I do not believe she was more than three times there in her life. I began to visit Lady Altham soon after she came to Dunmaine. I think she was attended by Mrs. Giffard, a neighbour of hers, and her woman was one Heath. I do not recollect any gentlewoman that came from Dublin.

Did you ever see Mrs. Briscoe there?—I remember that old Briscoe was turned out of the collectorship of Wexford, went over to England and got into favour with the Duke of Buckingham, brought over Lady Altham, and kept her incog. until he brought my lord and her together, and then they came down to Dunmaine.

Did you ever see Mrs. Briscoe or her daughters there?—I never did. I do not know any of the family except the old man. I remember a trial at the Naas for murder, when I was a second to the gentleman tried. I lived at Dunmaine at that time, but that was before I went into the army.

Evidence for Defendant.

William Elms, examined—In the years 1714 and 1715 I lived at Miltown, which is about a mile and a quarter from Dunmaine. I do not know exactly when my Lord and Lady Altham first came to Dunmaine, but I remember their being there. I went there, sometimes as a visitor and sometimes on business, about two years after my lord came first and before my lady came. I also went there after my lady came down. I was never introduced to her, but I knew her by sight. I knew the servants very well at the time my lady was there. I remember Anthony Dyer (my lord's gentleman), Martin Neif (the smith), Rolph (the butler), and one Cavanagh. I do not remember any other men servants. Then I remember Mrs. Heath (my lady's waiting gentlewoman), Joan Laffan, and Joan Landy (the kitchenmaid). Joan Landy was with child at the time my lady came to Dunmaine. She was at this time actually in the service. She left shortly after my lady came, and I suppose that her being with child was the cause of her leaving. She had a brother who lived as a cotter with me, and when she was turned from my lord's she came to her brother's and stayed there for some time, where I saw her. She then went to her father's, where I saw her again. Her brother told me one morning that she had been delivered of a child. Some time after that I went to her father's house, and I asked her whose child it was, and she said, "It is my lord's." The child, who was a boy, would then be about a week or a fortnight old. I saw him several times at her father's house. I saw him when he was half a year old and a year old at her father's house, and also at Dunmaine after my Lady Altham had left. I would judge him to be not less than three years old at that time. His grandfather's house was at a place called Cordran, about a quarter of a mile away from Dunmaine House. There was no road between Dunmaine House and Landy's house. William Elms

Was there any road made for a coach after my lady came there?—No, not at all. There was a slough there, which was cast up on both sides, but not cleaned, and gates.

How long had the gates been there in my lord's time?—They were there about the time my lord came down.

Was the child that you saw at all these periods of time one and the same child?—It was the same child, to be sure. I knew it, for it had not sixpence worth of clothes on it, and it was in the same dress always till my lord took it in after my lady went away.

What became of the mother, Joan Landy?—She kept with her child. One day when I came to Dunmaine I found my lord standing with his back towards the kitchen door and the child playing at his feet. Joan Landy looked in at the gate, and

William Elms my lord, seeing her, swore, and called out the men to let out the hounds and set them at that whore. He said, while I was standing by his side, that he would not for £500 that the child should know that that whore was his mother.

Did my lord give any directions concerning the house where this woman lived?—He ordered it to be pulled down, and accordingly it was pulled down.

Was it upon this occasion?—It was upon this occasion. I only once again saw the child at Dunmaine House, I believe about a month afterwards. I never heard that my Lady Altham had had a child at Dunmaine. If she had had a child we would all have heard of it. I never saw Joan Landy's child at Dunmaine while my lady lived with my lord. I believe the boy would be about three or four years old when he was first taken into Dunmaine House. Up till that time he had always lived at James Landy's house, which was a small shepherd's house consisting of one room divided into two parts with sods and stones across. After the child came to Landy's house there was no alteration made in the house, so far as I know. The house lay in my way when I was going to Dunmaine House, and I never saw any alteration made on it after the birth of the child. I never saw any other child in the house. It wore some rags and a bit of a flannel blanket, and it had a little cap on its head. After my lord took it to his house he seemed to be very fond of it, and sent to Ross for a tailor. I am certain that this was the same child as I had seen at Landy's house. A coach might drive between the two houses, but there was no road made that I know of. I saw no furniture in Landy's house. There was only a great bed of straw, and that with all the bedclothes on it would not be worth one shilling. There was no whitewashed room, nor was there a fireplace or a looking-glass. There was a great deal of dung in the room. I had known Joan Laffan almost since the time she was an infant. I cannot recollect in what year she came into my lord's service, but it was while my lady was at Dunmaine. After my lord and lady left Dunmaine she and one Taylor lived there.

Do you remember whether she had any child in her care after my lord and lady left it?—I cannot tell. I saw her with some child there, and I suppose she took some care of it. I never saw any child in her care while my lady was at Dunmaine. I never spoke to Joan Laffan at my lord's house while my lord was there, but I spoke to her afterwards. I often saw her, and she would see me. I went into the laundry one day, and my lord said, "What, Will, are you going to kiss my maid?" "No, my lord," says I, "please, your lordship, I would not do such a thing for the world, but she is an old acquaintance of

mine, and I only came to speak a word or two to her." I am certain that Joan Laffan cannot deny that I spoke to her several times at the house. William Elms

What is the general character of Joan Laffan? Is she a person of credit that should be believed upon her oath or not?—I think she should not be believed upon her oath. She is a woman of bad character, though she came from honest people. She has known my name for this forty years.

The Court—Let this woman be brought into Court.

Joan Laffan, recalled—I have known that gentleman, Mr. Elms, since I knew anybody. He is the person I mentioned the other day, and I believe he has known me since I was born. I only remember of seeing him once at Dunmaine, and that was in the low parlour after my lady went away, to the best of my recollection. Joan Laffan

Do you remember to have been in the laundry when that man was speaking to you, and my lord came in and asked him if he was going to kiss his maid?—Indeed, by the virtue of my oath, I don't. I don't remember that ever he was there but the once I mentioned. He lived about 2 miles away, and he did not visit the family, so far as I know. In my opinion, he is a man to be credited upon his oath; I cannot say any harm of the gentleman.

Had you care of any child at the time he saw you?—Upon my word, I had the care of Master James Annesley, who was in the house more than half a year before Lady Altham went away. There never was any other child in the house but that one.

To William Elms—Did that child that you saw at Dunmaine House after my lady went away live in the house before she went?—Not at all; I do believe verily in my heart my lady never set sight on it, nor would not.

To Joan Laffan—Did you ever tell Mr. Elms that you were employed as dry nurse to my Lady Altham's child?—I do not think I ever did, because I never conversed with him that way. The child usually wore a silk scarlet coat, a velvet coat, a gold laced hat and feather.

William Elms—I never saw such a dress upon the child.

Joan Laffan—The child had that dress both before and after my lady went away. I was for about three years in the service, and I do not remember that I spoke twice to Mr. Elms in all that time.

To William Elms—Had you any conversation with that woman more than once at Dunmaine?—I have spoken to her

William Elms
Joan Laffan

several times, and particularly the time when my lord found me in the laundry with her. Don't you remember that? Can you deny it?

JOAN LAFFAN—I protest I know nothing of it. I was chambermaid. I never was laundrymaid. Joan Landy was nurse.

What was she before the child was born?—She was not a servant in my time. When I came to Dunmaine the child was at nurse with Joan Landy, who lived in her own house—her father's and mother's together—about a quarter of a mile away. I did not know that house before the child was sent to nurse there, but I was sometimes at the house afterwards. It was a handsome house, with handsome things in it.

WILLIAM ELMS—I was in Landy's house before my lord and lady's separation. I never saw any such fine room, and there was not any unless it was underground. I saw no furniture at all. There was a wall made up with sods and stones.

JOAN LAFFAN (clasping her hands)—Oh, fie, Mr. Elms. I wonder you'll say so. By the Holy Evangelists, there was never a sod in the house.

WILLIAM ELMS—I continued to stay at Dunmaine House while any of my lord's goods were there, and then I went to my brother. I would be in Dunmaine House for a full twelvemonth after my lord went away. Besides myself there were in the house Mr. Taylor, Dr. Sutton, the kitchen-maid, and a gardener. Aaron Lambert was in the house for about a month after my lord left; he lay sick in bed all the time. Dr. Sutton was at the house constantly for a year after I came. I do not know where he came from, but I know that he was an English gentleman. There was a little looking-glass that hung on the wall of Landy's house.

If you had been in the house must you of necessity have seen this room?—I must, to be sure, except I had shut my eyes.

JOAN LAFFAN—Workmen were sent to make a road from Dunmaine House to Landy's house. I saw the road. It was made of gravel and such things, and was level.

Was this one continued road?—There were path-roads, but they made a road the whole way for the coach to go by.

WILLIAM ELMS—There was no beaten road at all. There were only places open to let a coach through. Landy's house lay on the way from Dunmaine to Captain Giffard's house. There might be gravel by the gate where Landy lived.

Do you know on what occasion that road was made?—I believe it was to go to Captain Giffard's.

Was there any coach road beyond the cabin?—No.

Evidence for Defendant.

To Joan Laffan—Was it ever known by the neighbours that my lady had a son, and that the child you nursed was that son?—It is known by two thousand people; and everybody knows it if they would please to tell the truth. William Elms. Joan Laffan.

William Elms—I never heard that my Lady Altham had a son, nor did I hear that that child was Lady Altham's. Lady Altham very often went over to Mrs. Giffard's, and Mrs. Giffard to her.

Joan Laffan—That was not the road to Captain Giffard's.

William Elms—I never saw Mrs. Giffard at Dunmaine House, but I have very often seen her in the coach along with my lady.

What reason had you to give Joan Landy a bad character?—When my lord left Dunmaine he left Taylor and this woman to take care of the house. The goods were taken away and were afterwards found in the possession of this woman. Besides that, I heard that she had a child by this man Taylor at Dunmaine. The goods that were taken away consisted of a feather bed, some casks, and my lord's buckles. They were afterwards taken back to Dunmaine House.

Joan Laffan—The feather bed was my own. There were some old feathers in the house when my Lord Altham left it, and he gave them to me. I could disgrace you, Mr. Elms, and make you appear blacker than you have tried to make me if I pleased.

The Court to Joan Laffan—You may now withdraw.

William Elms, cross-examined—When my Lord Altham came to Dunmaine the servants were Anthony Dyer (his lordship's gentleman), Rolph (the butler), Martin Neif (the smith), one Weedon (the coachman), and other servants who are now out of my memory. I knew Joan Laffan and Joan Landy. I cannot say whether Joan Laffan was a servant when my lord came to Dunmaine, but Joan Landy was kitchenmaid. I remember Mrs. Heath, my lady's waiting-maid. There were two or three cooks, but I do not remember who they were.

How then can you remember that Joan Landy was the kitchenmaid?—Because she had the appearance of being with child at that time. I went hunting with my lord, and then when I was high constable I used to go to Dunmaine to collect the public money. I was high constable in 1717. I do not remember the names of any of the maidservants except Juggy Landy.

How came you to remember her name when you cannot remember the names of the other maidservants?—Because she was always very busy about the kitchen, and it was thought

William Elms

that Rolph, the butler, and she were together. I saw that she was with child when my lady came to Dunmaine. I have dined and supped with my lord more than once, but not while my lady was there. I dined at Dunmaine with Taylor after my lady came. I conversed with the upper servants, but never with the lower servants. I never was in Landy's house before my lady came. After Joan Landy left Dunmaine she went to her brother's and stayed about a week with him, and then she went to her father's. I saw her once when she was at her brother's. I do not think that would be so much as a year after the time my lady came to Dunmaine. Her brother told me that she had a child.

Had she more than one child?—I never saw more than one with her. I cannot tell how long it was before I was made high constable that her brother told me she had a child. Joan Landy's child had light-coloured hair. She was brought to bed some time in the spring. I cannot tell what time of the year it was when my Lady Altham came to Dunmaine. I believe I had seen this woman with child before I saw Lady Altham. I never saw the child after it was three or four years old. I never heard that it died of smallpox. I heard that Joan Landy was afterwards married. I never made an affidavit concerning what I knew of Joan Landy's child. I believe it would be a month, or something more, after my lady went away that I first saw the child at Dunmaine. My lord lived at Dunmaine for half a year and more after the separation. I went to see the child when Joan Landy was brought to bed, because people said that it was my lord's child, and I wanted to make certain. I asked her whose child it was, and she said, "It is my lord's." "I believe then," says I, "my lord is very kind to you now, Juggy." I was often at Landy's house, because I had got leave to cut some turf almost next door. When I first saw the child at Lord Altham's house it had a little bit of a waistcoat upon it, and a little flannel about its neck. My lord wished to set the hounds after Juggy Landy because he did not want the child to know her to be the mother. I saw the child after the tailor brought him the clothes. It had a yellow silk coat. I do not know the name of the tailor; I suppose he lived at Ross. I know Aaron Lambert very well. I never saw him at Dunmaine, but I heard he was there.

Was the child kept private in the house or seen publicly there?—The child went publicly about the house, and everybody of the neighbourhood saw it. I was not acquainted with Lady Altham—I only saw her. I was made high constable about the time of my lord and lady's separation.

Anne Giffard

Mrs. Anne Giffard, examined—I was acquainted with the late Lord Altham and his lady. I lived about a mile or a mile

and a half from Dunmaine. I very often visited there, and my lady visited me very often. Lady Altham came to Dunmaine, I believe, in 1713, a day or two before Christmas, and I visited her in the holidays, and she visited me some time after that. I believe she was at Dunmaine and Dublin for about three years, and I often met her during that time. I never observed nor heard of any sign of pregnancy in Lady Altham. She could not be with child without my knowing it or having heard of it, because I was often at Dunmaine, and in the room while she was dressing. I have lain at Dunmaine, but not often. I would be in my lady's company once a fortnight and sometimes twice a week. I do not believe a month would pass without my seeing her, except when she was absent. I never heard her say that she was with child, but I have heard her wish that she was with child. I was with child myself about thirty years ago, and not very well pleased at it, and my lady said, "Why will you be concerned with being with child? I wish I was in your condition." I never asked Lady Altham whether she was with child, because she had no signs of it. Anne Giffard

Joan Laffan lived at Dunmaine a little while before my lady went away. I do not remember whether I was ever at Dunmaine after the separation. Upon my oath, I never saw any child there in my lifetime. It was reported that there was a child by Joan Landy. My husband was a justice of the peace, by name Ravenscroft Giffard. I cannot be sure whether I ever saw Joan Landy. If I did it would be only once. She was kitchenmaid at Dunmaine, and I heard that she was with child, but I did not trouble myself with her. I never saw Lady Altham after she went to Ross. I never had any discourse with Lord Altham about Landy's child any more than in a joke, when I told him that it was said that Joan Landy was with child by him. He only laughed and said, "Well, well, Mrs. Giffard." I do not remember of my lady ever being confined to her room. I knew that Mrs. Hesther had lived in the family, but that was before my lady came. I knew Mrs. Shiels, the midwife. I heard from the midwife that Mrs. Hesther was brought to bed of a child.

I remember going with my lady in her chariot to the assizes at Wexford, when the Pretender's men were tried—Mr. Walsh, of Monyseed; Mr. Masterton, his nephew; and a clergyman, Mr. Doyle. I believe that was in the springtime, and it must have been after the death of Queen Anne. I am sure it would be more than a year after my lady came to Dunmaine. I was in Court with my lady and some other ladies all the time that these men were tried. My lady and I lodged together at Wexford, at one Sweeney's, her room being over against mine. I never heard of my lady being with child at that time. I

Anne Clifford never saw her get out of bed or undress herself at Wexford, but I have seen her at Dunmaine. I was only once with my lady at the assizes. We were at Wexford for about a week, and then we came back to Dunmaine, where I lay one night. About a month or five weeks afterwards my lady went to Dublin. I remember that Mrs. Heath accompanied my lady to Wexford. There were other servants, but I do not recollect them now. I believe I often saw my lady between her return from Wexford and her going to Dublin. There was never any appearance of her being with child during that time. During all the time that Lady Altham lived in my neighbourhood I never heard of any public christening of a child of hers, or of any rejoicings on such an occasion.

Cross-examined—I cannot tell how often Lady Altham and I were in the Court-house at Wexford.

Were you there more than once?—We were there, and that is all I remember. A great many gentlemen went into the Court-house with us. Mr. Caesar Colclough sat beside Lady Altham and me in the Court-house, and Lord Altham was also there. I cannot recollect any other persons. I do not remember whether Colonel Loftus was there, but very likely he was. I do not recollect who were the judges. I think I visited Lady Altham during the Christmas holidays of 1713 or thereabouts. I saw Mrs. Briscoe there. I think her daughter came down afterwards. I cannot tell how long they stayed there, but I believe some of them stayed as long as three months—I believe the daughter stayed there the longest. I visited the family frequently during that time. I never heard that my lady was out of order, or kept her bed, or miscarried, during that time. I think it was after the death of Queen Anne that we were at the Wexford Assizes. Both my lady and I were in mourning. I had a brother that had died, but whether it was then or not I cannot tell. I cannot tell whether Mr. Colclough was in mourning or not, but he generally wore black. I do not know whether all the gentlemen of that country were in mourning. My lady and I went to the Wexford Assizes for our diversion only. I cannot recollect who handed my lady into the Court-house, as it is so many years ago. We sat on a seat going to the bench. I cannot tell how long we remained in the Court. I do not remember the verdicts being brought in. I cannot tell whether the persons whose names I mentioned were tried that day or not, but both Walsh and Masterton were in the dock. I heard evidence to the effect that they had enlisted men for the Pretender. Lady Altham and I did not go out of curiosity to hear these trials, because we knew nothing of them before we went there. I do not think we were in the Court when the jury returned their verdict. We stayed in the

Court till about dinner-time. Lord Altham went with my lady to Dublin about a month after the assises. I do not know what they went to town for. Anne Giffard

I never saw James Landy's cabin to my knowledge, but I have heard that there was such a cabin. Mr. Pigot's family lived at Tyntern when Lord and Lady Altham lived at Dunmaine. I never saw them at Dunmaine more than once. I have seen Mrs. Lambert there, but not very often, and I have also seen the wife of Mr. Giffard, of Coldblow. Lord Altham's coach came to my house several times. It would come by the road over the bridge.

Mrs. Catherine Lambert, examined—I am the wife of Aaron Lambert, who has the estate of Dunmaine, in the county of Wexford. I was married in January, 1713. Lord and Lady Altham came to Dunmaine before I was married, but I cannot exactly tell when. I was then residing in Ross, which is about 4 or 5 miles away, and I often visited Dunmaine along with my husband. My lady stayed there for about three years. I never saw her to be with child while at Dunmaine, and I was visiting her constantly all the time I was at Ross. I cannot tell exactly how long I stayed at Ross, because I was backwards and forwards at my father's at Waterford. I never heard from any person that my lady was with child or had a child. I never had any conversation with my lady about children. I do not think that she could have a child without my knowing of it. She never had the appearance of a woman with child while I knew her. There was never a child from the time of my lady's coming to Dunmaine till the separation that I ever heard of. I heard that there was a woman called Joan Laffan at Dunmaine, but I did not know her. C. Lambert

Did you ever see a child that had the appearance of a gentleman's child at Dunmaine?—I never saw a child there in my lord's time. No child was ever shown to me as the child of Lord and Lady Altham. I did not visit after the separation. I never saw a child in the house that passed for a child of that family. After the separation my lady lived at Captain Butler's at Ross. She was only there a short time, and then she went to other lodgings. I do not know Joan Landy, but I have heard talk of her. I have heard of a bastard child that Lord Altham had, but I know nothing of it. It was said that it was night-time when Lady Altham came to Ross after the separation. I very often saw her at the windows of her lodgings at Ross, but I never visited her, because Lord Altham had laid an obligation upon my husband that I should not visit her. I was never out of this kingdom, and I cannot speak a word of French.

C. Lambert

Cross-examined—I went to Ross about the beginning of March, 1713, and I think I returned to Waterford in about a month or six weeks. I cannot say how long I stayed at Waterford, but I might be there as long as three months. I was at Waterford at the death of Queen Anne. I did not look upon Waterford as my home. I reckoned my chief home to be in Ross, where my husband had lodgings. I was at Waterford at Christmas, 1714. I do not know where I was, whether at Ross or Waterford, at Michaelmas, 1715. I never to my knowledge saw Mrs. Briscoe and her daughter at Dunmaine, but they might be there for all I can remember. I know that I often saw Mrs. Giffard there. I do not recollect any friend or companion remaining at Dunmaine for a month or two. I cannot say whether I would stay three months at a time at Waterford in the years 1714 and 1715. We left Ross to live at Waterford after the separation. While my husband went to quarters I used to go to see my father. I cannot recollect whether he would be absent for six weeks at a time in the year 1716. He was at Wexford with me when Queen Anne died, and there came an express from the colonel for him to be in Dublin against the time that the King was proclaimed, and he was there time enough. I have known Matthias Reilly for several years. I believe he is an agent for the present defendant. I have heard him talking about this matter, but not in any way relating to me. My husband and I separated about fifteen or sixteen years ago, and I have lodged for about six years at Mr. Matthias Reilly's house. I pay him £16 a year for my board and lodging. My husband put in an answer to a bill filed on my behalf against him.

Is he to be believed on his oath?

Question objected to and withdrawn.

Seventh Day, Friday, 18th November, 1743.

John Kerr

John Kerr, examined—Immediately after the Queen's death I was appointed clerk to the late Lord Chief Justice Forster. I have gone every circuit that he went during his life. He went the Leinster Circuit, which began in March, 1715, and I was with him at Wexford Assizes that circuit. I remember Mr. Masterton and Mr. Welsh being tried for enlisting men for the Pretender. I do not recollect any persons that were then in Court, except the judges and some of the men that were about the table. I cannot say that there were any women or ladies of fashion present, as I do not remember. I believe

we went into Wexford on a Saturday, and this trial was on the Tuesday after, as near as I can remember, 16th April. John Kerr

Cross-examined—My Lord Chief Justice went on the Munster Circuit in the summer of 1715, and to the best of my remembrance on the North-East Circuit in the spring of 1716. I do not remember any particular thing concerning a clergyman at the Wexford Assize.

Thomas Palliser, the younger, examined—I was acquainted with Lord and Lady Altham when they were at Dunmaine. When I first knew them I was very young, and at school at Ross. My father and mother lived at Great Island, about 3 miles from Dunmaine, and I believe that Lord Altham and my father visited each other pretty frequently. My father was acquainted with my lord when he first came to Dunmaine, but I cannot be positive as to the year. So far as I know Lady Altham came to live at Dunmaine two years after her husband came. My lord took me from school and kept me at Dunmaine, and I hunted with him. I was frequently at Dunmaine after my lady came there. I remember that my lord frequently came to my father's house, but I won't take it upon me to say that my lady also came. I never heard of any report in the country that my lady had a child. I lived in the house while my lord and lady were there, but I cannot be positive as to the times because I was then very young. I think it would be about the year 1713. I spent more of my time then at Dunmaine than I did at Ross at school. While they were at Dunmaine I was either there or at Ross, and I was at home for some little time. I was very familiar at Dunmaine, and I never heard that my lady was with child. I do believe in my conscience that she never had a child, and I am convinced that if she had I must have heard of it. I remember four or five days before Lord and Lady Altham separated my lord was coming home from Birrstown, a mile and a half from Dunmaine, where we dined. There were present one Taylor, a receiver, and one Sutton. We had been drinking meath and brandy. I rode up to his lordship and asked how he did, and he said pretty well, and then after some little time he said that he was determined to part with my lady. I asked him the reason and he said, "I find my Lord Anglesea will never be in friendship with me while I keep this woman; and since I have no child by her I am determined to part with her and not disoblige my Lord Anglesea on her account." Upon that I said that he knew best what to do, but that I for my part would never turn off my wife to oblige any man. About a night or two before my lord told me this he heard Taylor and Sutton making a great noise after he had gone to bed. He asked me what the noise was, and I told him they T. Palliser

T. Palmer were drinking his wine; that they very often did so. He was angry, and swore that he would turn off his butler. On hearing this they wished to be revenged upon me, and they contrived a plot. Pretty early one Sunday morning he called me to get up, and said that he was going to church. I told him that I had just been dreaming that he and I had been fighting and that he had put out my right eye, at which he smiled. I offered to go to church along with his lordship, but he said that I must stay at home to keep my lady company. I replied that Taylor and Sutton were at home, but he said that they were not fit company and insisted upon me staying. And he also said that if I was to ride my horse that day it would not be so well able to carry me the next day, which was hunting day. After his lordship had gone I went into my lady's room, where I had often breakfasted before. Taylor and Sutton had told my lord that he must have some show for turning my lady off. While I was in my lady's chamber there was a whistle given, upon which my lord returned and came upstairs with his sword drawn. My lady bade me go and see what the noise was. As I was going my lord came into the room and made a pass or two at me, and then one Anthony Dyer took the sword out of his hand. I threw myself into the dining-room, and then some fellows with sticks and clubs fell upon me, but after defending myself as well as I could I was overpowered. At last I fell, and was senseless when one of them with a knife, as they told me, came and cut off this ear. (The witness showed his head to the Court, and it appeared that the tip of the ear only was off.) I do now believe in my soul and am convinced that my lord did not intend to do it. This is all I have to say to that and a little more, by the virtue of the oath I have taken—I never knew whether that lady was man or woman, and this is only to satisfy the public.

The Lord Chief Justice—This circumstance of the ear is very material because of Joan Laffan's testimony of seeing the ear and the child's pointing to the blood on the floor.

Examination continued—By the virtue of my oath, there was no child there. I never saw any child in the house.

(The Court ordered Joan Laffan to be called, and requested that no person speak a word to her.)

Examination continued—Anthony Dyer was my lord's own servant, and Charles, I think he was called, was the butler. I remember Mrs. Heath, my Lady Altham's maid, and I also remember one Joan Laffan. I never saw a child in her arms in my life, or in the arms of any man or woman servant in the house. By the virtue of the oath I have taken I never saw

a child with Lady Altham. I think my lord brought the surgeon Sutton with him from England. He continued in the family all the time that I lived there, and he sometimes stayed at Ross. I cannot really say whether he bled well, but I know that he was a very gouty man. I do not know what station Joan Laffan was in, but I remember when we went to bed she used to wash the parlour every night. I have known her since that time. By virtue of my oath I think she is one of the vilest persons living, and I do not think she is a person to be credited upon her oath. The whole country knew that Lady Altham had not a child. I will venture to say that there is not a man that knows William Elms but will give him a good character. I never heard of him being accused of running away with public money and being prosecuted for it. I remember to have heard that he was high constable. T. Palliser

Cross-examined—There was a very great intimacy between Lord Altham and me. I cannot tell whether there was a great friendship between Lord Altham and Lord Anglesea when my lord separated from my lady. I did not know Lord Anglesea at that time. The event which I mentioned happened on a Sunday.

Do you believe my Lord Altham at that time had laid any scheme to abuse you?—I say, by virtue of my oath, he took me out of bed that morning for that very reason, because he knew I should have no other place but to sit with my lady in her chamber, as I very often did, and that was the place intended. I believe my lord might have separated from his lady without doing me an injury, but I think he had a mind to have some sort of colour for doing so.

[Joan Laffan having come into the Court, a complaint was made by the defendant's counsel that Mr. Annesley's servant was found speaking to her, whereupon the said servant was ordered to be sworn and called upon to declare what he had said to her. Being accordingly sworn, he only said that he told her that she was sent for by the Court, and that young Mr. Palliser was then being examined, and she answered, "I don't care; for they will get nothing by me." She did not tell him what she meant.]

Joan Laffan, examined—Mr. Palliser was often in the house, and behaved very ill in the house, and was very abusive to the servants. He was so ill-beloved that he was obliged to take a saucepan of water and wash his own stockings, for none of them would do it for him. He used to put horse jallap into their beer, and he used to tell my lady a great many lies and stories about the servants. To be revenged, one Thursday morning the servants took my lord into a little room, and Joan Laffan

Joan Laffan they said they would tell him something very material, and made him swear not to repeat what they were going to tell him. On the Saturday night following I was putting my lady to bed when my lord asked me to order a fire in his dressing-room and to put a shirt to air, and he told my lady he would not dine at home to-morrow. Mr. Palliser breakfasted with my lord, and they had a bottle of mulled wine. A little while after Mr. Palliser went into my lady's room, and then the servants made a signal and went with my lord into my lady's room with drawn swords. I cannot tell whether this was the first time that Mr. Palliser was in my lady's room. The servants brought Mr. Palliser out, and then the groom said to me that Mr. Palliser was caught in bed with my lady, and that my lord was going to kill him, but they desired him only to cut his nose or his ear. I told Mrs. Heath what had happened.

Did you see the ear after it was cut off?—Yes, I saw it in their hands. It was not very large, only the soft part, the lowest part (pointing to the tip of her own ear). I cannot remember whether there was any of the gristly part cut off. The child was about the house with me, and he pointed to the blood with his finger. Mr. Palliser was dressed with his hat and wig, but he was found in the room with my lord's satin nightcap on, and had it on when he was brought out of the room. When my lady breakfasted in her room it was part of my business to attend to her.

Did you use to have the child with you then generally?—Yes, I did not attend her till the child came home. I never saw my lord breakfast with my lady in my life.

My lady admitted none of the male servants to breakfast with her?—No, she never did. I lived with Colonel Deans when Queen Anne died, and I went to my lord's service in the year 1715. The child was then either three or four months old. Mr. Palliser was not there very frequently. I have seen Mr. Palliser playing often with the child, but I do not know whether he would take him up in his arms. Mr. Palliser was never in the house after my lady left.

T. Palliser THOMAS PALLISER, cross-examination continued—By virtue of my oath, I never saw a child with that woman in my life.

The LORD CHIEF BARON said that Joan Laffan had sworn nothing contrary to her former testimony, that she had only explained what she meant by the ear being cut, but they declared their surprise at the contradiction of the evidence on both sides.

Cross-examination continued—Lord Altham made two passes at me, and if I had not put them by he might have run me

through the body, but I cannot tell. I do believe if he had found me in an evil action he would have done it. I cannot say whether he designed to run me through the body when he made a pass at me. I never saw Joan Laffan upstairs in my life. It was always Mrs. Heath who used to attend to my lady. Joan Laffan never attended her at any time, because she was a very proud woman, and would not have inferior servants about her. I cannot tell how often I breakfasted with my lady. I believe my lady might have directed me twenty times to breakfast with her. I do not know but what I might have breakfasted in my lady's bedchamber, to my lord's knowledge, within a week before the separation. I remember Lord Altham saying on one occasion after Lord Anglesea had recovered from an attack of the gout that he would give something to anybody that would give him the first notice of Lord Anglesea's death. I think the conversation which I refer to as having taken place when coming from Birrstown took place four or five days before the separation. T. Pelliser

Can you recollect about what business it was that my lord and you were at Birrstown?—We went there for a drinking bout. They were drinking meath and brandy. Taylor and Sutton were riding a little before us, but they might have heard the conversation if they had paid attention. I do not know that I had any conversation with my lord before he made the declaration that I have already narrated. To the best of my recollection, my lord, Sutton, Taylor, and I were all together at breakfast on the morning that this misfortune happened, but I do not think that I took any breakfast along with them. I believe there was mulled wine at breakfast. I think I had a white cap on that morning, the cap I lay in that night. I do not think I had a silk cap on. I do not think I had my wig on at breakfast. I do not remember ever wearing a cap of my lord's. I do not remember who took care of my body linen, but it might have been Juggy Landy. She always washed the room and made the bed. I do not think I used to take my nightcaps with me to my lord's house.

Did you use to lie in a napkin?—Indeed, I cannot say. I believe I often lay without any at that time. I cannot recollect having seen my lord in a nightgown, nor can I ever say that I saw a nightgown of his in his bedchamber. I have seen him in a nightcap, but I never remarked what like it was. I do not know the name of the laundrymaid, but I fancy Joan Laffan assisted in the laundry. I don't recollect how late we sat up on the Saturday night. My lady was generally in bed when I breakfasted with her.

Was she in bed on account of any indisposition, or was it a French fashion she had of receiving her guests in bed?—I do

T. Palliser not know what you may mean by your French fashion, but, generally speaking, she lay in bed long. She always had a gown or a wrapper on. I believe her maid would go backwards and forwards when I was breakfasting in her room. I am positive that I never saw a child in the house. I cannot say that I knew Mrs. Briscoe and her daughter, but I remember to have heard of one Mrs. Briscoe. After the usage I had met with from my Lord Altham I sent him a challenge next morning, and I posted him on the Cross of Ross for not meeting me. My father afterwards went and bade him come and meet me.

Did not my lord fly out of that country on that occasion and go to live at Mr. Annesley's, at Ballysax, to shun you?—I know he went out of the country, but I do not know for what reason. I cannot say when he quitted the country. I do not know whether he left Dunmaine before 1717 or after. On the morning of the separation I think Anthony Dyer took the sword out of Lord Altham's hand. I cannot tell whether my lord saw the servants strike me. I was in such confusion that I did not know what I was knocked down with. I am convinced that no gentleman in the country ever heard that Lady Altham had a child. I cannot tell whether Mr. Pigot's family lived at Tyntern while Lord and Lady Altham lived at Dunmaine. I never saw one of that family at Dunmaine. I think I once saw Mr. Pigot, who married Mrs. Leigh. They might have lived in the neighbourhood without my knowing. On the Sunday that the separation took place my lord said that he was going to church at Tottenham Green, so far as I remember, but he said that I was not to go with him. Both Taylor and Sutton used to dine with my lady. Mr. Taylor was a kind of receiver, and unless there was a full company he dined at the table, but when there was a full company he sat at a side table. I do not know what Sutton was, but I suppose he attended the house on business. I did not apply for satisfaction in a Court of law, because my father did not think proper to do it, and I had no money at that time.

Were you not found alone with my lady in her bedchamber?—I do not know whether Mrs. Heath was there or not—I do not know that any one was in the bedchamber then.

Did my lord ever find you alone with her and she in naked bed but this one time?—I do not know whether he did or not, but by virtue of my oath I believe so. I swear positively that I had no criminal conversation with this lady.

Thomas Rolph THOMAS ROLPH, examined—I knew Lord and Lady Altham in England two or three years before my lord came to Ireland. I came to my lord's house at the latter end of the year 1711, and I remained with him as butler to the end of the year 1715.

Evidence for Defendant.

Thomas Rolph

Lady Altham came to Dunmaine in the year 1713, a little before Christmas. I never heard of her being with child during that time. I waited on my lord twice a day, dinner and supper, and I never saw any sign of her being with child, nor did I ever hear it reported. I heard both my lord and lady often wish that they had a child. Among the servants who were in the house during my time I remember John Weedon, the coachman; I believe he is now dead. I also remember Bourke, the postilion · Michael Foster, the cook; Arthur, a gardener; and Martin, the smith. As for the women servants, there was one Juggy Landy that was a kitchen wench under Foster. And then there was little Black Nell, that was a weeding wench under Arthur; and Mary Hayes, the dairymaid. I also remember Mary Waters, a chambermaid; and Betty Doyle, a laundrymaid; and then there was a dog-boy, whom we called Smutty. Mrs. Heath was my lady's own woman, and Mary Waters used to carry up the tea kettle to her bedchamber for her breakfast. After Mary Waters went away there came one Nellie Thomas in her place. I do not know whether I would know Black Nellie again, but I am sure I should remember Betty Doyle. Then there was Anthony Dyer, my lord's gentleman. I cannot tell if I would know Smutty again. I never knew Juggy Laffan, nor did I ever see her to my knowledge. I left the service between Michaelmas and Christmas, 1715. I did not get a discharge when I left. It seems that Joan Landy was with child when I left, because two or three months afterwards she was turned out for being with child. She was brought to bed in her father's cottage, which was about a quarter of a mile from Dunmaine. Two or three days after Joan Landy was brought to bed I went on purpose to see the child, and I carried it to the door to see if I could know whose it was. I asked her who she laid this child to and she said, "To my lord." "Why," says I, "you are in the right of it, for if you had lain it to anybody else I do not know how it would have been maintained." I asked her the question because I knew some other people that had lain with her as well as my lord. I saw the child fifty times and more after that. It lived in the hut where it was born. It was a little hut, as is commonly built in Ireland, with just one room. Joan lay with her father and mother on some straw on the ground. There was a fireplace on the left hand as you go into the house, but I believe there was no chimney. There was no partition, there was only a hurdle stuffed with straw at Joan's head to keep the air of the door from her. The child stayed in that cottage as long as I lived at Dunmaine. I never saw any other child in that cottage. The hurdle I have referred to would perhaps be

Thomas Reigh

thus broad (extending his arms), and perhaps 4 or 5 feet high. There was no window in the cabin, neither were there any chairs or a table. All the time I was at Dunmaine there was no alteration made in that cabin. If there had been any alteration I must have seen it, as I was there almost every day. It was never whitewashed. The child was dressed in a sort of woollen stuff thing all the time I knew it. Joan Landy used to come about the stables at Dunmaine, and I used to give her what broken victuals there were to help to support her child. The child was never suffered to come to the house of Dunmaine. My lady forbade that Joan Landy should come upon the land or near the house at all.

What was the reason she was not suffered to come to the house?—Why, it was first given out it was my lord's child, and that is a good reason, I think. I never knew my Lady Altham to go to Landy's cottage. She was as proud a woman as any in Ireland, and she would not have suffered any child of hers to be nursed in that way, I am certain. There was a tolerably good coach road between the cottage and Dunmaine House, but it was made long before the cottage was built. I saw the cottage being built a year before the child was born, and the road was made a year before that to go to Mr. Palliser's, Mr. Giffard's, the church, and the mill. Mr. Giffard visited my lord before and after my lady came.

Mr. Mackercher came to my house and asked whether I ever lived with Lord Altham, and I told him I did. He asked whether my lady had ever had a child, and I told him no. He asked me the names of the servants as near as I could remember, and I told him the names. He then asked me if I would accept of a lieutenancy and I said no, that I was better as I was. There were two gentlemen along with Mr. MacKercher, one of them being called Sir Thomas, and the other looked like an officer. Mr. Mackercher came to me again, about a fortnight or three weeks after, and asked me whether I had said that he had offered me a lieutenancy. I said that I knew it was not in his power to give me one, and I desired him to go off my ground, because I heard that there was some tampering going on in order to give evidence, and I was not going to be tampered with. I had told many a one about the first conversation I had had with Mr. Mackercher.

I remember my lord, my lady, Mrs. Giffard, Mrs. Heath, and I going to the Wexford Assizes when some of the Pretender's men were tried. Mrs. Giffard went in the chariot with my lady. My lord rode, and Mrs. Heath and I went on horseback. I left my lord's service because I had a dispute with Arthur, the gardener, and beat him, upon which he went to Dublin to complain to my lord, and my lord sent a letter to Dunmaine threatening to send me to gaol at Wexford. My

lord and lady went to Dublin some time in May, 1715, and I left the service between Michaelmas and Christmas of that year. I recollect the Queen's death. My Lord and Lady Altham were in Dublin then. The time we went to Wexford Assizes was in the spring after the Queen's death, and I beat the gardener about Michaelmas of 1715. I cannot tell when my lord and lady returned from Dublin, because I went away to England before they came back. Joan Landy's child was christened by the name of James by one Michael Downes at Nash, a little village near Dunmaine. I was not at the christening and I cannot say when it took place, but I heard about it. I ne[illegible] heard him called by any other name than James. Thomas Relph

Cross-examined—I joined the army immediately after I went to England, before Christmas of 1715. I entered Lord Altham's service at the latter end of 1711 or the beginning of 1712, and I continued in his service for about three years. I was there for a year and a half after my lady came to Dunmaine. I never heard Joan Landy's child reputed to be mine, but I won't tell what was my own imagination. I don't believe that the child was my Lord Altham's. I believe it to be the child of the present Earl of Anglesea. Joan Landy never sent me any message to Lord Altham about the child. I believe that Lord Altham knew that Joan fathered the child on him. I cannot tell why it was that the child was so ill taken care of. The coach road passing Landy's cottage was the nearest and best road to go to Mrs. Giffard's by. She came almost constantly past that house when she came in a coach. That road was also the best coach road from Dunmaine to Mr. Pallizer's house. I remember that Mrs. Heath came with my lady to Dunmaine. I am sure that Mrs. Briscoe did not come down with her. I have seen Mrs. Briscoe and her daughter in the house, and they might be there a fortnight or three weeks or a month. I cannot tell whether Mrs. Briscoe came within a year after or not.

There were six horses in the chariot when we went to Wexford. I rode a brown bay horse. I cannot tell what was the colour of Mrs. Heath's horse. I was not in the Court-house during the time of the trial. I cannot tell the day of the week or the month that we went to Wexford. We stayed here for two or three days. I lodged at the post office, but I cannot tell in what house my lord and lady lodged, as I did not attend them there. I do not remember what clothes my lord and lady wore. I wore dark grey clothes. I believe the family might be in mourning at that time. I never wore a livery. I did not get any wages when I left my lord's service. I went to Wexford because my lord's gentleman was sick at Dunmaine.

Thomas Rolph I did not attend my lord at Wexford. My lady was ill for about a week or a fortnight altogether while I was in the service, but she never kept her room for more than a day or two. I went to Wexford because I was my lord's clerk, and there was some examinations taken before him, and I carried them for him. Before Juggy Landy's father went to his cottage he lived at a little house near the dog kennel. He used to steal the apples and the poultry, and was turned away. I believe he would be in his cottage about a year and a half before his daughter was brought to bed. Before I went into Lord Altham's service I was a housekeeper in Chelsea, and my lord lived next door to me. My wife continued to live in the house, and I came over here to look for some money that my lord owed me. I never got a farthing of wages.

How much a year had you?—Why, nothing a year, for I got nothing from him. My lord was by no means rich; he had little to live on.

What did you hire with him for?—I never hired; I acted as his butler. I made no agreement. He told me that he would pay me the money he owed me in England, and if I would take on to be his butler he would pay me for that too. I never demanded any wages after leaving my lord. I believe he would be owing me about £20. I shall be sixty years old in July of next year. Shortly after the visit to Wexford my lord went to Dublin and took with him Anthony Dyer, Mrs. Heath, the coachman, and the postilion. I had the care of the house while he was at Dublin, and I never went to Dublin with him. I don't think Miss Briscoe went along with my lord and lady to Dublin in the year 1715. There was no person called Charles Meagher in the service while I was there. The Pretender's men were tried at Wexford in the year 1715, after the Queen died.

Did you ever tell anybody since this trial or within these ten or fifteen days that at the spring assizes after the Queen's death there were Pretender's men tried at Wexford?—To be sure, I have spoken of it several times. I do not know but I have told it to five hundred people. I spoke about it to my comrades in the army. I cannot remember whether I told it to the present Earl of Anglesea or to Mr. Jans or Mr. Burroughs. Since I came to Ireland I have heard that the Pretender's men were tried.

Can you tell any person that you spoke to about the spring assizes at Wexford at any time before you came here to-day?—No, I informed nobody of it, nor did I tell it to any one soul that I know of. I saw Mrs. Giffard here yesterday, but I had no conversation with her. I was told that she was examined in this cause yesterday, but I heard no particulars of her examination. I have never served the present Lord

Anglesea in any station. I cannot tell whether I saw Joan Landy's child walk about with a blanket about its shoulders before Lord and Lady Altham went to the Wexford Assizes. Thomas Rolph

Owen Cavanagh, examined—I knew the late Lord and Lady Altham very well. The first place I ever saw Lady Altham was in Dublin, and then I saw her several times at Dunmaine. I was in Lord Altham's service a long time before my lady came over, and I was living at Dunmaine when my lady first came; I cannot tell for how long, but it was till I went with Captain Annesley to Dublin and took a fever. After I was better I went back to my lord. While my lord and lady were in Dublin I had a quarrel with the cook about a hogshead of water. I took a stick and broke the cook's head, and the cook went to Dublin and complained, upon which my lord sent down a letter to commit me to Wexford gaol. I then left the service. To the best of my remembrance I would leave the service about three or four months before my lord and lady separated. I was living with Lord and Lady Altham before we were in mourning for the Queen, but I do not recollect where I was at the time of Queen Anne's death. I was with my Lord Altham when my lady came to Dublin, and I returned with my lord to Dunmaine. I do not remember whether my lady came to Dunmaine along with my lord, but if she did not she came a short time after. I do not remember that my lord and lady went to Dublin again. I never attended them to Dublin to my knowledge. O. Cavanagh

By virtue of my oath, I never heard or knew that my lady was ever with child. I remember my lord had a great big fat steward, called Taylor, while I was there. The cook's name was Michael. I was groom, and Taylor's business was feeding the ducks, and drinking and singing with my lord. We called him steward, but I do not know what he was. Thomas Rolph was butler. My lord had a page called Anthony Dyer, and I think when my lady came to Dunmaine he bestowed him upon her. My lady's maid was an English woman called Mrs. Heath. I remember a woman there called Joan Landy, but I do not know whether she was a servant or not. She was a kitchenmaid and scoured, but whether she had wages or not I cannot tell. Everybody supposed her to be with child, and I know we made game of her. When my lady came down somebody told my lady that Landy was got with child by my Lord Altham, and for that reason she was turned out of the house. I saw her afterwards in her father's cottage, and I saw a child with her. That child was never brought to Dunmaine House to my knowledge, and my lady was anything but fond of it. I never saw my lord fond of it. I was inside

Cavanagh

Landy's house; it was but a very despicable place. To the best of my memory there was just one room, and there was no furniture except a pot and two or three trenchers and a couple of straw beds on the floor. The cottage was built after I came to live at Dunmaine. I do not remember it being whitewashed. There was no window except a window for the smoke to go out of. By virtue of my oath, I never heard of Lady Altham's being with child. I frequently heard my lord wish that my lady had a child to inherit the estate to deprive this present man of it, for there was nothing but constant quarrels between them.

I cannot tell what became of Joan Landy's child afterwards. I saw a child at Inchicore after I was married, but whether that was it or not I cannot tell. I spoke to my lord concerning that child, and I said, "I am persuaded he is your lordship's son by that woman. Why don't you take some care of him?" To the best of my remembrance, my lord told me that he was such an idler that he could never get any good of him. Kinnea is within a mile from where I now live. I never saw my lord there or at Carrickduff. I do not remember when the Pretender's men were tried at Wexford.

Cross-examined—I believe I was married in the year 1719, because I showed my wife the certificate the other day and said, "See, my dear, what an old married couple we are." I cannot say whether I lived at Dunmaine in the year 1715, because I can tell nothing of any year.

Was not this child of Juggy Landy's a black, swarthy child?—You may as well ask me what colour the King of France's child was. At the time my lord took to his lady there was a good deal of joy among the servants of Captain Briscoe's.

Anthony Dyer

ANTHONY DYER, examined—I waited on the late Lord Altham as his gentleman for five or six years. He was living at Dunmaine when I first entered his service. I was but a lad at the time. Lady Altham came to Dunmaine shortly after I came, and I remained there for three years after my lady left. I was at Dunmaine at the time of the separation. After they first came to Dunmaine they returned to Dublin. I was constantly with my lord except when he sent me to Dublin about business. I would never be absent more than a fortnight at any time. By virtue of my oath, I never knew that my lady had a child, good, bad, or indifferent, till this late uproar came up. I never heard that she was supposed to have been with child. I remember some of the servants in the house—John Weedon, coachman; Mrs. Heath, my lady's woman; Juggy Landy, the kitchenmaid; and Michael, the cook. To the best of my knowledge Juggy Landy was with child at the time of my lady's

coming to Dunmaine, and she continued there for about two months till it came to my lady's ears, and then she was turned away. As far as I know, she then went to live with her father and mother. I saw her after she was brought to bed in her father's house, about a quarter of a mile from Dunmaine House. I saw the child after it was born; he was named James. I cannot tell when Landy's cottage was built. To the best of my knowledge Landy lived in that cottage during part of the time that Joan was in my lord's service. The cottage was a very poor one, of one room, and with a bush that they had to draw in and out for the door. There was a place made up like a basket at one end, where Joan lay. The child was very poorly dressed. Anthony Ryer

Was it such as you would expect from that woman's child?—Ay, for she deserved no better. She told me that it was my lord's child. I believe I would see the child five or six different times. She used to bring it by stealth, and leave it with the grooms in the stable till she got some victuals and small beer to subsist her. I never saw the child in Dunmaine House while my lady resided there. I never saw my lady handle any child in the house. The child might be in the house without my knowing about it. Joan Landy came about the house by stealth, because she was afraid on account of fathering the child upon my lord. I never saw any other child with Joan Landy but that child that I saw a fortnight after it was born. I cannot tell what became of the child. Juggy Laffan was a servant at Dunmaine for about three or four months while my lady was there. She was a chambermaid, and she never had the care of any child during that time to my knowledge. I do not think that any servant could have the charge or care of a child in that house without my knowledge. To the best of my knowledge, when my lord met my lady at Captain Briscoe's, on our going down to Dunmaine, servants and some of the tenants made a bonfire to welcome them. I do not remember any christening in Dunmaine House, private or public, nor do I remember any bonfire or rejoicings except on the occasion I have mentioned. I never knew Landy's cottage to be repaired during my time. I never saw a glass window in the cottage. I very frequently saw my lord's chaplain, Mr. Lloyd, at Dunmaine, but I never saw him christen any child there. I never heard him say anything about a child being christened in Dunmaine House. I knew Rolph, the butler. I always went to Dublin with my lord and lady, and Rolph was left in the house at Dunmaine. I do not think Rolph was in the family when I went back to Dunmaine with my lord and lady again. He was succeeded as butler by one called Charles, who was hired in town. George Sutton was the surgeon that attended the family. I remember young Mr.

Anthony Dyer Palliser; he frequently visited Dunmaine. I never knew him to misbehave to the servants. I never took any oath with any of the servants against Mr. Palliser. I never knew him to wash his own stockings. The only thing I remember against Mr. Palliser is that he once told my lord about the servants drinking wine.

How did the servants behave to him?—Very well, all the better servants did. I have seen my lady breakfast in her room, but I never saw her in her bed. I cannot say whether Joan Laffan used to bring the tea kettle up to her.

Cross-examined—I was at one time a gaoler at Cork. I never saw the child in Dunmaine House to my knowledge. I continued with my lord for about three-quarters of a year after the separation, and, by virtue of my oath, I never saw any child in the house with my Lady Altham. I am about forty-five years old. I cannot tell what year it was I left Lord Altham. Joan Laffan was in the house at the time of the separation, but I cannot say whether she continued to be there for any time afterwards. I never went into Landy's house after the separation, although I sometimes passed it. I cannot tell what became of Joan Landy's child after the separation. To the best of my knowledge my lady went twice to Dublin after she first came to Dunmaine, but I cannot say how long she stayed there. When my lord and lady came to Dublin they would sometimes stay more than a month and sometimes less—I cannot tell how long. I cannot remember how long it was after my lady came to Dunmaine that she and my lord first went to Dublin. I was sick, and kept my bed when my lord and lady went to the Wexford Assizes. I never told Mr. Jans, the surgeon, to my knowledge, that I was sick at Dunmaine, nor did I mention it to Rolph, with whom I had a conversation a few days ago. To the best of my knowledge my lord and lady came to Wexford from Dunmaine, but I cannot remember where they spent the summer there, as it is so long ago. I had not seen Rolph for many years till I saw him the other day in Dublin.

Had you any discourse with him about anything that passed at Dunmaine while you lived together?—We called over all our jokes and merriments that we had. We had no discourse about the son, whether he was Lord Altham's son or not, nor had we any conversation about the trial. I never told any one about anything that I recollected about the matter in dispute. I do not recollect a man called Reynold at Dunmaine.

Did you mention to Rolph in your conversation with him that you believed my lady had no child while she was at Dunmaine?—Yes, I did, and he told me so too, for he knew it as well as I.

Evidence for Defendant.

Had you any conversation with Rolph about this trial to put Anthony Dyer one another in mind?—I never had.

Did you not both talk of the absurdity and wickedness of pretending to set up a child in this family?—I never did, to my knowledge.

Did you not mention to him any circumstances by which you were sure there was no child in the family?—I did not, nor did he, to my knowledge. I never said to Rolph that I knew my lady to be with child at the time she went to Wexford Assizes, because I never knew her to be with child. Rolph left my lord's service before I did. I do not remember Mr. and Mrs. Pigot, but I remember Mr. Palliser and his family, and Mr. and Mrs. Giffard. To the best of my knowledge Mrs. Briscoe and her daughter paid a visit to Dunmaine. I do not remember of a man that went by the name of Harry, the cook. I cannot remember seeing Mrs. Giffard come in a carriage or coach to Dunmaine. I cannot tell whether Landy's cottage is still standing. I saw Landy's child about a month after his birth, and I believe the la[illegible] time I would see him would be about six months after th[illegible]. I might see the child before the separation, when Juggy Landy brought him into the stables to get some victuals.

Mrs. Mary Heath, examined—In October, 1713, I came over to Ireland with Lady Altham as her woman, and I lived with her to the day of her death, in October, 1729. I was constantly with her, except for one week. We came down to Dunmaine the Christmas Eve after we came over to Ireland, and my lord and lady lived there together for about three years and two months, to the best of my remembrance. They parted in February. Mary Heath

In what year?—I call it 1716-17.

Had my lady a child at Dunmaine?—A child. She never had, nor was she ever with child. I never had reason to think she was with child all the time I lived with her. I always dressed and undressed my lady, except the week I was absent. While she was at Dunmaine I always put her to bed and attended at her rising in the morning, for she was such a woman that she would not permit anybody else to do it. She could not possibly have been with child without my knowing it. After the separation I went with my lady to Captain Butler's in Ross in a four-wheeled chaise and pair of horses. It was dark at night when we arrived at Ross; my lady made it as late as she could, for she did not wish to be seen coming there. We arrived on a Sunday, I think it was 3rd February, and we lived there for more than four years. I do not know whether my lady ever saw my lord during that time.

Mary Heath

When we came to Dunmaine, as far as I remember, the servants were Rolph, the butler; Anthony Dyer, my lord's gentleman; Setwright, the housekeeper; Michael, the cook; and Juggy Landy, who was a kind of scullion under the cook. Soon after we arrived at Dunmaine, as I came down to speak to the housekeeper, I saw this woman with child, and I said to the housekeeper, "You have got a maid big with child here," and she said, "Yes, an officer was here some time ago, and his servant got her with child." Next day it was bussed about that it was my lord that had got the child, and some said my lord's brother, and some said the dog-boy and several of the servants had to do with her. She stayed two or three months, till the housemaid was afraid to keep her any longer, and then she went to her father's, but I never saw her there. After the child was born I asked the coachman's wife to bring it up to the gate, in order that I might see it. Juggy Landy herself brought the child. It would then be about six weeks or two months old. It had on a neckcloth which I had given it, and it was in a clean blanket, and I gave her several things. I wanted to see the child, to know who it was like. I did not bring it to the house, for my lady would not have liked it to be brought there. There never was any child christened or living at Dunmaine House while I was there. My lady during that time never spoke to me about being with child or having had a child, but she often wished she had a child on account of a quarrel she had with Mr. Annesley. She came up crying one day after dinner, and I asked her what was the matter, and she said that that brute below—meaning the defendant—had said that he wished she might never have a child, and my lady said she wished she might have a child to inherit, and she did not care if she was to die the next hour. After that quarrel Mr. Annesley left the house and went to Dublin.

I was at the Wexford Assizes with my Lord and Lady Altham to hear the trials of the Pretender's men. My lady told me that there was one Walsh tried, and she spoke of how handsomely he pleaded his own cause. She also mentioned one Masterton. I do not remember the month we were at the assizes, but it was in the spring-time, shortly before we went to Dublin, and I remember we were in Dublin in May. On going to Wexford Mrs. Giffard and my lady went in the chariot, my lord went on horseback, and Rolph and I and Mrs. Giffard's sister were also on horseback. There were several other servants there, but I do not remember them except Weedon, the coachman, and Bourke, the postilion.

Give an account of the occasion of the unfortunate separation?—On a Saturday night my lord said he would go out somewhere to dine the next day, and my lady begged of him

not to go, for she hated him to be out on a Sunday. On the Mary Heath
Sunday morning he did go from the house. I heard a noise, and I was going downstairs to see what was the matter when I met my lord coming up with his sword in his hand, and he said, "Heath, I have found Tom Palliser in bed with my wife." I said that it was impossible, and that he was set upon by a set of villains. Upon that my lord said that she should go out of the house, and he sent for one Mr. Wellman, from Ross, who advised him to turn my lady out. She begged that he would let her have one room in the house, and he need not come near till she wrote to my Lord Duke. He would not hear her, but he hauled her out of bed, and I advised her to come out. We packed up some things and went away in the four-wheeled chaise, and arrived at Ross at night-time.

Was there any child brought to take leave of my lady?—Oh, no, no child indeed. During our residence at Ross there was no child that my lady received as her child. I believe we stayed two months or more at Captain Butler's, and then we went to one Mr. Wright's, and then to Mr. Croft's, where we stayed till we came to Dublin.

During this time was there any child brought to my lady as her child?—No, there never was. She had no child. I can say no more if they rack me to death. I knew Joan Laffan. She was what we call a housemaid, and it was her business to wash the rooms and make the beds. She came to live at Dunmaine three or four months before my lord and lady parted. She helped the laundrymaid to wash.

Did she dry-nurse any child before the separation?—No, we had no child for her to dry-nurse. I never saw any child in the hands or care of Joan Laffan while she was at Dunmaine. I do not know one Edward Lutwich, a shoemaker, at Ross. I do not know who made my lady's shoes. I am quite sure she never ordered a pair of shoes for a little boy. She never had a pair of white damask shoes while I lived with her.

When we came to Dublin we lodged at one Cavanagh's, in Stable Lane, and from there we went to Mr. King's in Charles Street. From there we went to Mrs. MacMullen's in Mountrath Street. We went to England in September, 1724, where we stayed till her ladyship's death. Before we went to lodge at Mr. King's I went to look for lodgings in a house somewhere upon the quay. I saw the owner of the house, a woman, and gave her a pistole in earnest, but afterwards, on my telling the woman that the doctor did not wish my lady to live upon the quay, she gave me back the pistole. I never saw that woman afterwards. My lady never saw her or spoke to her, to my knowledge. I never heard or knew anything of Joan Landy's child from the time I left Dunmaine.

Mary Heath Did you ever hear that he was in Dublin?—I heard that my lord had taken him, but I know nothing of him. On the death of Lord Altham I received a letter from Mrs. MacMullen giving an account of the death of his lordship. I at once showed the letter to my lady, but she said nothing at all. My lady did not come into any fortune upon the death of her husband. The estate went to the late Lord Anglesea, she not having a jointure settled on her, but if she had had a child the Altham estate would have come to it. My lady had no more account of his lordship's death than what was contained in that letter. She was in mourning at the time for King George. Lord Altham never sent my lady a farthing after the separation. She was supported by my Lord Duke, and when he died he left her £100 a year.

I know Mr. Mackercher, and I recognise him in Court. He came to my house in St. Andrew's Court, Holborn, on 13th April, 1742, and said that he had come to ask me some questions as to whether my Lady Altham ever had a child. I told him that she never had one while I lived with her. Then he told me how this Mr. Annesley was recommended to him by two lieutenants; one of their names was Lieutenant Simpson, but the other I do not know. He then told me how he came to him and said that he, Mackercher, gave him ten guineas. Mr. Annesley told him he had no lodging, and he took him in. He then showed me a list of the servants with my name at the top. When I saw the name of Joan Laffan I asked what she could know about this affair, and he told me that she said that she saw old Parson Lloyd christen the child. I said that I knew him. He then thanked me, and said he was very well satisfied with what I had told him, that he would go home and wash his thands of them and turn them all out of doors. He added that he would not have missed seeing me for a thousand pounds; that if I were dead my Lord Anglesea would lose his estate and title, as there would be such bloody swearing. I said I was sorry that he had been so imposed on, and I assured him that my lady had not a child. I said that if my lord and lady had had a child born to such an estate they would have had him registered. I showed him Mrs. MacMullen's letter, and he told me that Juggy Landy did not deny that she had a child by my lord, but that it died young.

When we returned to Dublin after the assizes Lady Altham lodged at Mrs. Vice's house in Essex Street. She was not then with child, and she never had a miscarriage while I lived with her. She might lie for a day or two in bed while she was at Mrs. Vice's, but I never told anybody that she had miscarried. I never had any conversation with Mrs. Vice's maid Catherine. I never had any discourse with one Ally who waited on Mrs.

Briscoe's mother as to my lady being with child. I do not know Mary Beach that I ever saw Alice Betts at Mrs. Vice's. Lord Altham used to call my lady Molly, but I never heard him call her Moll Sheffield. I am positive I never told Alice Betts anything as a piece of good news. It is not the case that while Mrs. Briscoe and her daughter were at Dunmaine I called Mrs. Briscoe out of bed. I remember that there were some cups and saucers at Dunmaine that had some very ugly and indecent figures on them, and my lady never cared to use them. One day the housekeeper had got some of the saucers to put the dessert on, and there happened to be some words at the table, and my lord threw them on the ground, as I was told, but that did not cause any fright to my lady or put her out of sorts. I was in my lady's room next morning. There were no servants there unless the housemaid, who used to come and light the fire.

Do you remember one Mary Doyle in the family?—No; Betty Doyle, I did. Miss Briscoe might be there for all I remember. I remember Mr. Sutton, the surgeon. My lady never liked him, and he went from the house and was away some time. I don't think he could attend my lady in any illness without my knowing it. I never knew of any confinement for about a fortnight that required the attendance of a surgeon. I do not know that Sutton ever refused to come when sent for. I knew Mrs. Shiels, the midwife, at Ross, but I never saw her at Dunmaine in my life. I do not remember the name of Dennis Redmonds. I never gave any directions to any servant to fetch Mrs. Shiels to my lord's house. I do not remember the name of Thomas Brooks, and I cannot be positive whether my lady was ever let blood. At the time of the separation it was said that the servants had cut off Mr. Palliser's ear, but I cannot tell anything about it, not being present.

Had you ever any discourse with persons to this purpose, that if my lady was to be frightened at this rate she would never go with a child?—No. I do not know whether my lady kept her bed a day or more while Mrs. Briscoe was at Dunmaine. I never called Mrs. Briscoe out of bed at any time earlier than usual. Sutton, the surgeon, was back and forward in the house. I do not remember that he lived in the house for any time about the time of the saucers being broken. I am certain that Joan Laffan did not call me down to rescue Mr. Palliser from being murdered. My lord came up and told me about the affair. The incident as to the saucers happened while Mrs. Briscoe was in the house. I was never present in the room while they were at dinner. I cannot tell what is the age of Miss Briscoe.

Cross-examined—When Lady Altham came over to Dublin she lodged at Captain Briscoe's, and Lord Altham was brought to that house and reconciled. About 4th or 5th December they

Mary Heath went straight from there to Dunmaine, where we arrived on Christmas Eve. They did not go to Mrs. Vice's house on that occasion. I remember that Mrs. Briscoe and her daughter were at Dunmaine House on St. George's Day, and she desired my lord to make use of her house when he stayed in Dublin. He went to her house for some little time, and afterwards went to Mrs. Vice's. When we were at Dunmaine we heard of a great many quarrels that my lord was in, and my lady, when she heard of such doings, came up to town. That was shortly before the Queen died. We then lodged at Mrs. Vice's, and stayed there for three or four weeks, and then we returned to Dunmaine. We remained there till the May following, and then we went back to Mrs. Vice's, where we stayed for more than a year. All of Mr. Maurice Annesley's daughters, Cherry, Sarah, and Dolly, visited my lady when she was at Mrs. Vice's in May, 1715. I knew Mrs. Charity Annesley very well, and I am certain that my lady was visited by her while she was lodging at Mrs. Vice's. I remember on one occasion at Mrs. Vice's—I cannot remember whether it was in 1714 or 1715—my lord was making a great noise with a chair, and I went to take the chair away from him, and he took a hold of my headclothes. I do not think that my Lady Altham screamed out upon that occasion, because she would rather have been killed than that any one should have heard it. I remember on another occasion my lord said that he would send for one Mrs. Lucas to see whether my lady was with child, for if she was not he would turn her off and would not live with her, but that he would know whether she was with child before he turned her away. I do not remember whether my lady was confined to her chamber, but I am certain that there was no miscarriage.

I never knew of any lady seeing the woman from the house on the quay to whom I had given the pistole in earnest. I had no conversation with her about the return of that pistole, so far as I know. I believe if she had seen the woman she would have told me about it. One MacMullen went and received the pistole, and gave it back either to me or to my lady. Mr. Annesley's lodgings in 1715 were opposite the Custom House. I cannot tell how far his lodgings would be from Essex Bridge. Lady Altham lodged at Captain Sweeney's house at Wexford. Mrs. Giffard's sister, who was unmarried, was one of the company. I cannot tell whether they went to hear the trial of the Pretender's men, but my lord and lady might know about that trial. I remember that Anthony Dyer was ill at the time, and Rolph went to Wexford, but he did not lodge in the same house with my lord. I cannot tell whether he attended my lord or not. I mentioned Juggy Landy's being with child on the very night that we arrived at Dunmaine. I cannot tell how long she continued in the house after that.

Evidence for Defendant.

Mary Heath

Pray, madam, could your righteous spirit bear that this woman should stay so long in the house?—Indeed, I did not concern myself about her. I have never seen Lady Blessington visit Lady Altham. Mrs. Pigot visited Lady Altham more frequently at Ross than at Dunmaine. There was a crowd of people at Ross when we arrived there after the separation, but it was so dark that I could not see who they were. The day after the quarrel between my lady and Captain Annesley my lady sent for him to come to dinner, but he would not come, and he left Dunmaine and never came back again while my lady was there.

I saw Mr. Annesley several times at my house in London, and I told him that my lady had not a child. I never told Mr. Hussy that the plaintiff was greatly wronged, and that I knew more of that affair than anybody. The first time I heard of the report that Mr. Annesley was on board Vernon's Fleet was when I was sent for by the Duchess of Buckingham. I had not seen Mr. Hussy at that time. When my lady came to Dublin from Ross she was lame, and by degrees she lost the use of her limbs. I cannot tell how she came by that disorder.

Did not that disorder come on her after there was a report that she had a child?—A child! The disorder began at Ross. There was a report of Lady Altham's being with child before I went to live with her ladyship, but there was no such report after I went to live with her. My ladyship enjoyed all her understanding and all her senses, and was able to manage her own affairs till the day before she died. The £100 a year left by the duke was to cease upon the death of Lord Altham, but my lady the duchess gave her £100 a year after the duke's death. I am not a washerwoman; I take in plain work, and I have some money at interest. The Duke of Buckingham died before we left Ross. My daughter and I have the interest of about £700 between us, the greater part of which is my daughter's.

Eighth Day, Saturday, 19th November, 1743.

Robert King

Alderman Robert King, examined—I knew the late Lady Altham. She lodged at my house in the year 1723 for about thirteen or fourteen months. She had a maidservant called Heath. Her ladyship dined almost every day at my table, and frequently talked to me about her family and misfortunes. I believe from the frequency of the conversation that she had with me that if her ladyship had a child or a son she would have told me. She never told me nor did I hear her say that

Robert King she had a son. I never saw a child at the house. Her ladyship could not stir, as she was weak in her limbs. Mrs. Heath was a kind of companion to my lady, and bore a good character. My lady had a kind of paralytic disorder in her limbs, but that did not in any way affect her understanding.

E. Molloy ELIZABETH MOLLOY, examined—My maiden name is Betty Doyle. I lived as a servant with Lady Altham at Dunmaine about thirty years ago. My lady came to Dunmaine on Christmas Eve. I served as a laundrymaid, and lived there for a year and a quarter, when I was married, and removed with my husband to a place about three-quarters of a mile from Dunmaine. I continued to live in that place for eleven years. I remember Lord Altham coming to me after the separation and asking me if I would dry-nurse Juggy Landy's child. I said to him, "I will dry-nurse a child for you, but I will never nurse a child for Juggy Landy." I saw the child when it was about a year old, but I never nursed it. I cannot remember how long the separation was after I left the service. When my lord asked me to dry-nurse Juggy Landy's child he wanted me to take it into my own house. I do not remember how old the child was then. By virtue of my oath, I never knew of my Lady Altham being delivered of a child, dead or alive, while I was in her service. If my lady had had a child at Dunmaine she would have been very proud of it. I have heard her say that she wished she had a son or a daughter, but she never had any. I never knew of any child being christened in Dunmaine House while my lady was there, nor did I ever hear of any rejoicings upon any occasion among the servants any time while I was there.

Cross-examined—I was hired in Dublin. Lady Altham never spoke to me about having a child, but I was told by some one that she wished she had one. I cannot remember what time of the year it was that my lord asked me to dry-nurse the child. I cannot tell how long it was after my lady had left Dunmaine. I only saw the child once, and it was then at its mother's breast. I cannot tell how long it was after I saw the child that my Lord Altham applied to me to dry-nurse it. I do not know Mr. Jans or Matthias Reilly. I know Mr. Wellman, of Ross; he never applied to me to come here. I do not know David Howlett, and I never told any one of that name about my lady's having a child at Dunmaine. I was with my Lady Altham in Dublin after she left Dunmaine, and also in Ross. I cannot tell how long it was after my marriage that my lord applied to me to dry-nurse the child. He made the proposal himself when he was hunting.

Evidence for Defendant.

MARTIN NELF, examined—I was a smith to Lord Altham at Dunmaine, and took care of the horses. I lived in the house for about a year before my lady came, and I continued in it while she was there except for a period of three months when I was ill, during which time I lived at Ross and also at Thomastown. I cannot tell what season of the year these three months were in. I believe my lady was almost a year in the house before I fell sick. I remember very well when my lady left the house, because I went along with her to Ross when my lord and she parted. I cannot tell how long that would be after my sickness. Lady Altham came to Dunmaine a day or two before Christmas and stayed there for about three years, leaving about Candlemas time. During these three years she went to Wexford once, and several times to Dublin. I never saw any child in Dunmaine House except a bastard son of Joan Landy's, which I saw in the house about two months after my lady had left. Martin Nelf

Was the child taken into the house to live, or did you see it only accidentally?—It was taken into the house to live. At that time Anthony Dyer was my lord's gentleman. After Anthony Dyer left my lord's gentleman was one Kennedy. I cannot be positive whether Dyer or Kennedy was my lord's gentleman when the child came into the house, but I am sure it was either the one or the other. I saw Juggy Landy when she was with child, and I remember being told that she had been brought to bed. I afterwards saw the child in her arms twenty times about the house to get something to eat and drink, which she got from the butler, Tom Rolph. She never nursed any other child than this one while she stayed in the country. A dairymaid called Black Kate took care of Juggy Landy's child after he was taken into the house. I afterwards saw the same child at Kinnea, and also at Dublin, playing with other boys. When I saw him in Dublin he was in a very indifferent condition, and he was playing with shoe boys. I believe that my lord at this time was living in Frapper Lane. By the virtue of my oath, the boy I saw in Dublin was the same one as I had seen in Kinnea. He was between four and five years old when he went to Kinnea, and about five or six years old when he left. I have not seen the boy since I saw him in Dublin.

Have you seen him of late?—I would not swear that for a thousand pounds. I do not think I should know him now. I believe my Lord Altham stayed at Kinnea for about two years. The boy was then reputed to be the bastard son of Juggy Landy and my lord. I have been present when my lord gave directions to his servants that if Juggy Landy should come near the house they were to set the dogs at her, and he would say, "God damn the bastard; he'll never be good; he has

Martin Neif

too much of his mother, Juggy Landy's, blood in him." Juggy Landy was at one time kitchenmaid in Dunmaine House, but she had to leave because she was big with child. I cannot tell how long Lord Altham lived in the house after the separation. I never heard of any christening in the house all the time that I or my lady was there. My lady's woman was Mrs. Heath, and she alone attended my lady all the time they were at Dunmaine. I was at Dunmaine both before and after my lady came down. I cannot recollect what company came with her. I was in the house at the time of the separation, which took place on a Sunday. I met my lord coming up stairs with a drawn sword in his hands. I asked him what was the matter. He told me to hold my tongue, and he went into my lady's room. I thought it not proper for me to go in, so I stayed behind, and then I heard an uproar in the room. I went with my lady to Ross. We arrived there just at nightfall, because my lady had desired the coachman not to go into the town till late. There was no one present with my lady but Mrs. Heath, the coachman, and I. There was no child brought to take leave of my lady. The child I saw at Dunmaine was called Jemmy Landy. He was with his nurse at that very time.

What nurse?—Juggy Landy, his mother.

Why did you call her the nurse?—Because I saw her nursing him. I cannot express myself as another man, but you will find recommendations from the best in Ireland concerning me. Joan Laffan was in the house both before and after the separation. I cannot remember whether she was laundrymaid or chambermaid. When I was living at Dunmaine I remember that my lady was visited by Captain and Mrs. Giffard, Mr. and Mrs. William Giffard, and Mr. Elms. My lord and lady used to go to Mr. Tench's and other places. I never knew Joan Laffan to attend a child at Dunmaine. The only one who took care of the boy after he was brought to Dunmaine was Black Kate.

Cross-examined—I did not live with my lord at Kinnea all the time he was there because I was married in the house and I went to live at Kildare, where I have been ever since. I think I would go to Kildare some twenty or twenty-one years ago. Before I went with my lord to Kinnea after the separation, we were for about a year at a place called Ballysonnan. I have no idea how long my lord continued to live at Dunmaine after the separation. I remember he went to Dublin and then back to Dunmaine, but I cannot name the time. The child was taken into the house of Dunmaine before my lord left the country. He had not sixpence worth of clothes on his whole body when he came to the house. I think there

were some old clothes made of silk that were made down for him. I do not recollect what their colour was. I did not return to Kinnea after I left my lord's service. I believe the child would be about five years old when I left Kinnea. The child was in very indifferent clothes all the time I stayed at Kinnea. He had a little habit and a petticoat of slate colour. The clothes he had at Kinnea were not the same as he had at Dunmaine. At Dunmaine he had a kind of habit made out of an old nightgown or some such thing. The first clothes he had at Kinnea which were made for him were worse than the clothes he had at Dunmaine. At Kinnea he had a kind of scarlet coat and breeches, said to be made out of a coat of my lord's. I remember they said that Jemmy would foul his breeches because they were the first he had on. I am almost certain I saw him dressed in this new scarlet coat before I left Kinnea. He was in his slate-coloured clothes when my lord used to order the servants to whip him whenever he did amiss. He did not give those directions to me because I was an out-servant, but I believe he gave them to the coachman. I have heard him say that he would break any servant's head in the house that would let Juggy Landy in to see the boy. I heard him tell Rice the coachman at that time to correct the boy, adding that he would never do good because he had too much of the blood of his mother, Juggy Landy, in him. I saw Rice two days ago in town. I heard my lord give these directions in the open kitchen before all the servants. The boy would then be coming to five years old, to the best of my knowledge. He always used the words, "Juggy Landy, his mother." During the time I lived at Kinnea the boy used to be in the parlour, but I never saw my lord very fond of him. I did not attend at table as a servant because I worked as a smith, but I very often saw my lord at dinner and at supper, because I was as free with him as any servant could be with a master. I would see him at supper as I went through the passage to bed, and sometimes I would go into the room to let him know that I wanted iron to shoe the horses. I never saw the child sit at table with my lord. Anthony Dyer did not live with my lord at Ballysonnan, to the best of my recollection. I cannot recollect whether Kennedy lived with my lord before he left Kinnea. I did not live with my lord when I saw the boy in College Green, Dublin. I was just about leaving my lord when the clothes were made for the child at Kinnea. I know Mr. Misset, but I never saw him at Kinnea. When I saw the boy at College Green he seemed to be about seven or eight years old. I think I had been living at Kildare for about two years before I saw him at College Green. I knew him to be the same boy at Kinnea. I do not know whether Mr. Misset used to hunt because I would know him among five thousand. He wore

Martin Self

Martin Bell his own hair. I know two persons called John Fitzgerald in Kildare, but I never told either of them that Mr. Jans had given me money and clothes. Mr. Jans never gave me a shilling to this hour. I never told Fitzgerald that my Lady Altham had a child. The way I came to appear here is that I happened to be shoeing a horse for a man in Kildare who came from the county of Wexford, and as we were talking about this affair I desired him to tell my lord's agent, Mr. Derensy, that I was living, and to send for me to give my testimony if necessary. I have never got half a guinea to this hour.

Did you name the agent's name to this man?—No; I asked him his name, and he told me it was Derensy. I believe this would take place about a twelvemonth ago. I heard from people that knew anything about this matter that my Lord Altham's son was coming over to take the estate from my Lord Anglesea.

Did any one tell you that Jemmy Landy was coming over?—They did not, for I believe they did not know of him by that name.

How came you to know that this was the son that was coming over?—Because I know my lord had no son but the one that he had by Juggy Landy. I give my oath that I saw the child in bed with black Kate at Dunmaine. Little care did I ever see Joan Laffan take of the child in my life.

What care did you see her take of him?—Why, every one would dress him and give him victuals. I never saw the child with a scarlet hat and feather at Dunmaine. When my lord went to Ballysax—the hounds and horses being at Ballysonnan—he left the child at Dunmaine, and then he went to Kinnea. When we were at Kinnea Harry Aston was groom, Price was footman, Rice was a coachman, and I was the smith. I was twenty times at Kinnea before the child came there. I cannot tell at what time it was that the child came to Kinnea, but we had not been there so long as a year. I could not tell who came along with the child. I cannot tell whether Juggy Laffan came with him I saw her there; my lord was going to duck her there, and would have done so but for the present lord, who hindered him, on account of the goods that she stole at Dunmaine. I cannot tell whether my lord sent for the child. I believe there is a tailor called Francis Mullhall that lives somewhere near Kilcullen Bridge. I cannot tell whether I saw this tailor at Kinnea or not, and I do not know whether it was he that made the scarlet breeches and coat for the child out of my lord's coat. I believe I would see these clothes on the child about a fortnight before I left Kinnea. I am not quite sure as to the material of which they were made, but I am sure that the colour was red. The boy went to John Mahony's school at Kinnea, but he dieted and lodged at my

lord's house. He did not go to any other school but Mahony's that I know of. He was a good, clear-faced boy with flaxen hair. I do not remember ever seeing him naked. I do not know whether my lord was living in Frapper Lane or not when I saw the boy playing on the streets with shoeblacks, but I was told that he was living there. I have heard my lord say in presence of the child that Juggy Landy was the child's mother. The child was treated as the bastard son of Juggy Landy. While I was in the service I saw some of the gentlemen of the neighbourhood that came to see my lord. I cannot say that everybody that visited my lord looked upon the child as his bastard child, but he was so reputed among the servants. Martin Half

Was he treated as my lord's lawful son before the company that visited at Kinnea?—I never heard that he was. I never heard any of the gentlemen concern themselves with him at all.

Was he introduced by my lord to any of the gentlemen that visited at Kinnea as my lord's son?—Not to my knowledge—as God is my judge, never to any one gentleman at all. I never saw the child dine or sup with my Lord Altham; he always ate along with the servants. I never saw the child ride abroad with my lord; he was not able to ride when I left.

What was it that the child did that deserved all this correction that was given him?—When the cook was dishing the meat he would perhaps come and throw the victuals down, and then they would go and complain to my lord, and he would order them to whip him. I have heard him give directions to Rice, the coachman, in the kitchen or at the kitchen door. There was a person called Mr. Geoffrey Paul that lived in the neighbourhood. I never saw him in my lord's company, and I do not know whether they were acquainted or not. My lord may have visited Mrs. Annesley at Ballysonnan, but I never knew him to do so. I never heard any complaint made against the child when gentlemen were in my lord's company. When the child was brought to Dunmaine Juggy Landy was living in her father's cottage. My lord gave directions that the child should not know his mother at all. I was present when my Lord Altham ordered the hounds to be set upon Joan Landy, and William Elms was with my lord in the yard. The reason he gave was that he would not have the child see her at all. He did not give any reason for that in my hearing. I heard him say that he would give £500 that the boy should not know that Juggy Landy was his mother, and he would give £500 more that he had been got by an Englishwoman.

Did he mean that he had been got by my Lady Altham?—I did not hear him say a word of my lady at that time. Everybody in the house called the child Jemmy Landy, and by no other name. I have heard the servants say that his name was Jemmy Annesley, because he was my lord's son, they said. So far as

Martin Self

I know, my lord gave no directions not to make known to the neighbourhood at Kinnea that he was not his son. The first school that the boy went to was at the Curragh, near the starting-post. I never knew of any of the servants going along with him to school. By virtue of my oath, I never heard the child called the young Lord Altham. To the best of my knowledge, I lived for a year and a half at Kinnea.

A. Caulfield

Anne Caulfield, examined—I knew the late Lord and Lady Altham when they lived at Dunmaine. I was living at Aclare, about 1½ miles away, all the time that they lived together there. I never heard of my lady having a child till recently. I sometimes went to Dunmaine with an errand from my father and mother, and I saw Lady Altham there. I was acquainted with Elizabeth Molloy, Mr. Rolph, the butler; Anthony Dyer, and several more that I cannot remember, and also with Joan Landy, who was a kitchenmaid. Joan Landy was there before my lady came. During my acquaintance with the servants I never heard them say anything about my lady's having a child. I noticed Joan Landy to be big with child when they were dancing on St. George's Day, after my lady came to Dunmaine. I heard that Joan Landy was delivered of a child, and I saw it in her father's cottage, but I cannot exactly tell when. I heard her say that the child was my lord's. About three years afterwards I saw it at Patrick Furlong's school at Acclamon. Lady Altham was then living in Ross. I heard of the separation between my Lord and Lady Altham. The child did not go to school till after the separation. I have heard my lord calling to Patrick Furlong and asking where Jemmy was, and I have heard him say, "I will horsewhip you if you let Joan Landy, that bastard's mother, come within sight of him, for we can get no good of him; he'll be so cross, looking to go to her, that there will be no quieting him." I called at the school in order to see my two sisters, who were there. I never saw the boy at Dunmaine House to my knowledge.

Cross-examined—I am forty-three or forty-four years old. I cannot tell how often I went to the school where I saw the boy. I only saw my lord there once. I cannot say how often I saw Joan Landy's child at her house. I cannot say whether I would see it more than once. When I saw the child at school, they told me that it was Joan Landy's child, and I believe it was the same from what I heard my lord say. I never heard that Joan Landy's child died. The only child that I heard she had before she was married was the child she had by my Lord Altham. I heard that she had a child by her husband, Daniel MacCormack, and I have heard that it is dead. I know Father Downes, and I saw him to-day. I am a Papist.

Evidence for Defendant.

Did Father Downes promise to give you absolution after this trial was over for the evidence you should give?—He never did, by virtue of my oath, nor did I ever ask him the question. A. Caulfield

William Rowles, examined—I knew the late Lord and Lady Altham when they were living at Dunmaine. I lived at a place called Ballykillmore, about a mile from Dunmaine, and I was very well acquainted with my lord and all that were in the house, which I frequently visited. I remember when they separated. I never heard it said that my lady had or was with child. I was only a farmer, but my lord was pleased to have me in company with him, and took me a-hunting very often. He was godfather to a child of mine. The kitchenmaid told me she was with child by my lord, and I told him what she said, and he replied that he believed it was so. Joan Landy was brought to bed in a little cottage where her father and mother lived. I have never been in that cottage. My lord often told that he never had any issue by his lady, and never expected to have any. He told me that while my lady was in England. If there had been any such thing as issue by my lady I must have heard of it both from him and from the servants, because his lordship would have told me, as he was pleased to give me liberty to be as free with him as if I had been his companion. After my lady parted from my lord the child was brought home to Dunmaine. I happened to be in the kitchen one day while the child and my lord were there, and I said, "I do not believe that Joan Landy belied your lordship, because the child favours your lordship about the eyes very much." And my lord said, "I believe so too, that Joan Landy has not belied me." He himself said that the mother was Joan Landy, and I and everybody in the house knew that it was his child by her. W. Rowles

Cross-examined—The child would be about three or four years old when I saw it in the kitchen. He could speak Irish but not English. I never spoke to the child in Irish.

Did you ever hear the child speak at all?—No, I did not. To the best of my knowledge my lord had very black eyebrows and grey eyes. When I said that the child favoured my lord about the eyes he and my lord were face to face, and I could see quite distinctly. The eyebrows of the child were of the same colour as those of my lord. I did not pay particular notice to the child's hair. I did not see his hair, because he wore a white linen cap. I never spoke to my lord again about the child, nor did I ever see the child afterwards. I do not know what became of him. My lord did not use to talk familiarly to me about his family affairs.

Why would you then take the liberty of telling my lord that

W. Bowles Joan Landy laid this child at his door?—Because my lord gave me the liberty of talking to him as being a sportsman. It was before my lady came that Juggy Landy told me that she was with child, and I then told my lord that she laid the child to him.

M. Downes Michael Downes, examined—I know the late Lord and Lady Altham when they were living at Dunmaine. I knew my lord first. He was at Dunmaine for about a year and a half before my lady came. To the best of my knowledge my lady lived at Dunmaine for about three years and four or five weeks. I was then living at a place called Birrstown, about a mile from Dunmaine. My lord and lady once came to see me there, and I sometimes used to go and visit them at Dunmaine. I would go there perhaps about once a fortnight, or once in three weeks, and I supped and dined there two or three times along with my lord and lady. I am a registered priest, and have lived in the parish these forty-two years. I never heard that my lady had a child during the time she lived at Dunmaine. It would be impossible for her to have a child without my hearing of it. Dunmaine is part of the parish that I am priest of. My lord was once so free as to tell me that he wished he had a son, and I believe that if he had a son he would have told me of it. Besides that, a child could not be born in the parish without my knowing it, because I was the parish priest.

Did you at that time register all the children that were born in your parish?—I had a register at that time, but we did not use to put such children in our register. I registered Protestants' children when I christened them. I believe it would be about a year or a year and a half after my lord came to Dunmaine that he told me he wished he had a son. I was acquainted with Mrs. Heath, Mr. Rolph, and Anthony Dyer, but I do not remember the rest of the servants. I remember there was one Neif there, a smith, and there was also one Juggy Laffan. I never saw Juggy Laffan at mass. I saw Joan Landy, who was a kitchenmaid in my lord's service. My lord had a ball at Dunmaine, and Joan Landy was then perceived to be big with child and was turned away. She was brought to bed in her cottage about the latter end of April, 1714. Joan Landy's mother brought the child to me at David Barns's house at Nash about 10th May, 1714, and as I thought there could be no harm done for making a Christian, I christened the child. I believe the child was then about a fortnight old. My lord asked me sometime afterwards whether I had christened the child, and I told him I had, and he said that it was very well done. When my lord asked me if I had christened the child he mentioned Joan Landy, and I said, "I have christened the child, but I have got no retri-

bution." "Well, well," says he, "I will take care of that; I will requite you hereafter." By "retribution" I mean christening money. At the request of James Landy's wife, who told me that my lord desired the child to be christened James Annesley, I gave him the name of James. I believe my lord asked me by what name I had christened the child, and I told him "James Annesley." M. Bowes

Did you christen him or use any other name to him but one, James?—I did not, for the other name is not necessary; but afterwards I said to the old women and godfathers that stood by, "This child must now be called James Annesley, because it is my lord's." The gossips were the grandmother and one David Barns, a blind man that lived at Nash. Juggy Landy was at that time unmarried. I have not seen the child since he was three or four years old, and I do not know what became of him. I never saw the child at Dunmaine while my lady resided there. One day I was going upstairs with my lord and we saw the child sitting on a chair in the parlour, and my lord said, "Why, you son of a whore, why don't you get up and make a bow to him that made you a Christian?" I do not remember having any other discourse with my lord about this child. The boy remained at Dunmaine after he was brought to the house as long as my lord did, and he went to Patrick Furlong's school. I did not use to register illegitimate children.

Suppose my lord had had an illegitimate son, would you have registered him?—I believe I would have registered that if my lord desired me. I never registered this boy Jemmy, because it was not usual to register such children who were merry begot, because they are got by sin and one thing or another. There is no burying place upon the lands of Dunmaine. The people are generally buried at Nash, about a mile and a half from where I live. I do not think that any of my parishioners or a child could be buried there without my knowing it. I am sure that I would have registered the funeral of this child, because I know he was a Christian.

Cross-examined—I cannot say that I visited my Lord and Lady Altham every fortnight, and it is quite possible that there might be three months when I did not see them. Besides that, I might go to the house and see my lord and yet not see my lady. To the best of my recollection the separation happened about Candlemas. I visited them the Christmas before that. I cannot quite remember whether I ate a Candlemas goose with them or not. I believe they were at home during the midsummer before the separation, but I am not sure. My lady was in Dublin one Christmas, as far as I can remember, the second Christmas after she first came. I believe she was in Dublin at Christmas, 1715. I remember

M. Downes the time the Pretender's men were tried at Wexford. My Lord and Lady Altham went to Wexford, and my lord spoke to me there. It was during the April assizes of 1715. I came home the day before the day of the great eclipse, which was the 22nd April, and my lord and lady came to Dunmaine a few days after that. Nine or ten days afterwards they went to Dublin, and continued there that summer. My lord came back and was with us at Christmas, and my lady stayed in Dublin as far as I can remember. I am certain that Dunmaine is the estate of Cæsar Colclough, because I know the whole parish belongs to him. No person came with Joan Landy's mother when she brought the child to be christened by me at Nash. She did not tell me that she had any direction from my lord with regard to that christening; she told me the contrary, that she had no directions.

Did she tell you so?—I heard it from other people that my lord would have the child christened by a parson.

Are you sure this woman told you that my lord said he would have this child christened by a parson?—I am sure she did. I recollected myself and said, there can be no harm done to me for making a Christian. She did not tell me that my lord had given directions for me to christen the child, but she said that my lord desired his name to be James.

Did she mention any other name that my lord desired that he should have?—Only Annesley.

Did this woman say that my lord gave any directions to have him called James Annesley?—She told me so indeed. She said that all the directions were that my lord desired he should be called James.

Did she tell you that my lord gave directions concerning calling it Annesley?—No, she did not tell me that, but I said, since you say it is my lord's son he ought to be called Annesley. I did not inquire of my lord before I christened this child whether he was the father or not; I thought it too mean to ask. The first time I saw the child after the separation would be about July or the beginning of August. I had not heard that the child was in the house before I saw it. As far as I can remember, he had on a green coat, a little cloak and a hat with lace upon it. He had no breeches. I believe the coat was made of stuff; I do not think it was made of silk. The child was sitting in his cloak in a little chair when my lord and I went upstairs. The cloak was made of cloth of a whitish colour, but I do not remember in what manner it was made. The child was sitting in the parlour, and then my lord asked him to get up and make a bow to the gentleman that made him a Christian. The boy did not speak much, but he made a sort of bow to me. I never saw the child again. I believe he would

be between three and four years old at that time. I cannot say how long the child remained in the room. I only said, "God bless him," and that was all. My lord and I took a glass or two of white wine, and then we walked out again. I could not say whether the child remained in the room all that time. My lord spoke to the child in English, but I do not remember how the child answered him. I understand Irish, but I did not understand what the child said, because he did not speak plainly. I believe he was at school at that time. I did not see Juggy Landy at the ball to which I referred, because I was not there at all, but people that knew her and talked to her told me that she was then big with child. M. Dowdall

I have had no register for the last twenty years. I never registered any Protestant's child in my parish, because I supposed that the parson would register them. By virtue of my oath, I never buried a child of Joan Landy's, but I heard that she had a boy that died of the smallpox, and they did not send for me to bury him. I believe I heard that about a year ago. If I heard it before, I did not remember of it. Joan Landy was married to one MacCormack by me, and I suppose they had two or three children christened. I never buried a child of this woman's, lawful or unlawful, but I was told that there was such a child buried at Nash. I believe it might be twenty years ago. I could not say whether the child that made me a bow was like Lord Altham, because I did not pay particular notice to him. I believe that he was a dark child, but I won't be positive. I could not say when it was that I heard my lord say that he wished he had a child.

I came home on 21st April straight from the Wexford Assizes. Wexford is about 11 miles away from where I live. I was bound over at Wexford because of some people giving information that I was for the Pretender. I did not apply to any of the gentlemen to befriend me, because I had no need of it. I was bound over from that assizes to another, and then I was discharged by the proclamation of the Court. I had seen and spoken to Lord Altham about a hundred times before I saw him at the assizes. There is a priest Mackay in Dublin that I knew at Wexford. I do not remember that I have ever had any conversation with any other man of my function concerning money that I could get from my Lord Anglesea. I never consulted a priest as to whether it would be lawful for me to take a sum of money from my Lord Anglesea, nor did I ever ask a priest if he would give me absolution if I did. Mr. Cæsar Colclough was not living at Tyntern at the time I went to the assizes. My Lord and Lady Altham separated about Candlemas, and my lord stayed on at Dunmaine for about a year. It is not common in our Church to bury very young

R. Downes children without a priest, but sometimes poor people do not send for us to do it. It is usual to say divine service at the burial of infants.

Re-examined—I married Joan Landy to one MacCormack, and I christened two or three children for them. I have only heard of one of her children that died of the smallpox. The father of that child was MacCormack.

Re-cross-examined—I do not remember the names of the children that Joan Landy had by MacCormack. I was told by people of credit that the child which died of the smallpox was her child. David Barns told me so, and he is an honest man. To the best of my knowledge, Joan Landy was married some three or four years after the separation of my Lord and Lady Altham.

P. Furlong PATRICK FURLONG, examined—I knew Lord Altham all the time he stayed at Dunmaine. I was engaged fowling for him for five or six years. I had a small farm, and I also kept a school for a time upon the lands of Acclamon. I remember the names of some of the children that came to my school. I had a child of Juggy Landy's at my school called Jemmy. He was put to school to me by my Lord Altham, and he remained for five or six months. He would be two and a half or three years old when he came to school. I used to go myself for him every morning to my lord's and carry him back in the evening. The child came to my school about two months after my lord and lady separated. My lord came to me two or three times and ordered me at my peril not to let his mother, Joan Landy, come near him. He did not mention any reason why he did not wish the mother to see him. On these occasions he was going a-hunting, and he just looked in to see if Jemmy Landy was at the school. The child at this time lived at Dunmaine. I last saw Joan Landy about six or seven years ago, when she was a servant to a baker at Ross. I also saw her about a year ago in January or February. I cannot tell what became of the boy after he left my school. He wore a very ordinary dress made of red and black stuff. He had not a frock over it at first, but afterwards he had. I also saw him in a little brown habit. I do not remember what it was made of, but it was not silk. He always wore a white cap on his head. He was looked upon as my Lord Altham's son by Joan Landy. I remember my lady coming to Dunmaine about Christmas Eve. I was very often at Dunmaine House, but I could not say how many times. I never heard of my lady's having a child from the time she came to Dunmaine till the time she left it. I once saw the boy at Ross, when he was four or five years old. He was a smart, pretty boy, and I am certain that he was the same boy as came to my school.

Cross-examined—The boy came to my school about a month after the separation, and I think he would be about two and a half or three years old. He spoke Irish very smartly, but he only understood a few words of English, because his grandfather and grandmother could not speak English. I believe I saw the boy at Ross about a year and a half or two years afterwards. I did not teach the boy to read or write. He had a likeness to my lord, but I cannot give an account of it. I do not know of what colour his eyes or my lord's eyes were. He had brown hair. When I brought the child home at nights I took him to the servant in the kitchen. Sometimes he would walk and sometimes I would carry him, and sometimes a servant would go along with us. I am certain that the child I saw at Ross was the same, because I knew him very well. Lord Altham gave me a crown piece for the child coming to school. He did not make much progress in learning English, I am sure. After he left my school he was about the house at Dunmaine, and he did not go to any other school, so far as I knew. My lord did not show any dissatisfaction at the little progress the boy had made with me. The boy was not taken away till I gave up the school in September. Mr. Rolph could not speak Irish. Joan Landy could speak a little English. P. Furlong

Arthur Herd, examined—I am a peruke maker to trade. I entered into the service of the late Lord Altham in March, 1720. I was an apprentice at that time, but I had run away from my master. Lord Altham was then staying at Carrickduff. There was a child there called Jemmy Annesley, who was reputed to be my lord's son by Juggy Landy, and was treated as such by the family. I lived with Lord Altham at Carrickduff all the time he was there till we came to Dublin about November, 1722. The child sometimes ate at my lord's table, and he was taught to spell by one Straghan, a harper, who used to draw pretty little pictures. My lord was visited by several gentlemen in the neighbourhood, but the only ones I remember are Mr. Warren and Major Dunbarr from Carlow. When I went to Carrickduff first the boy had a scarlet coat, and I believe a laced hat. I do not remember seeing him corrected by my lord at Carrickduff, but I have known him to correct him severely at Frapper Lane when he was accused of pilfering. When my lord left Carrickduff he went to live at Cross Lane, in Dublin. The child was brought there, and went to school, I think, in Ransford Street. He was reputed my lord's natural son by Joan Landy. My lord afterwards went to live in Frapper Lane, and I was his servant there. The child came there with the rest of the family, Miss Gregory, Mrs. —— I forget the servantmaid's name. The child was worse kept there than anywhere else, because his clothes had Arthur Herd

Arthur Herd

grown old. He was sent to Carthy's School in Plunket's Yard, and he was always reputed to be my lord's son by Joan Landy. I believe my lord lived in Frapper Lane for about twelve months, and then he went to Inchicore. The boy did not go to Inchicore, but was sent to a very orderly woman, Mrs. Cooper, in Little Ship Street. I saw nothing of him till 15th of November, twelve months ago. To the best of my remembrance my lord went to Inchicore in the year 1724, and I left six months after that.

On the morning of 15th November, 1742, I was sent for by one Simon Whelan, who told me that he remembered me at Dunmaine, and said that if I would speak but three or four words cunningly my fortune was made. He went with me to the Bear Inn in Enniscorthy, and I asked to see the gentleman that had sent for me. I saw one called Mackercher, and in reply to him I told him that I had lived with my Lord Altham. I also told him that I would know James Annesley if I met him in the streets of London. I said I would know him, because I had often cut his hair, and I could recognise him by the turn of his forehead and his eyes. Then Mr. Mackercher called the gentleman out of the dining-room and asked if he would know Arthur Herd, and he said he should, that I had often made him fiddles and little playthings, and then when he came in he kissed me and embraced me very tenderly. I was not positive it was he till he gave me some marks and tokens and other private reasons. Mr. Mackercher told me that I would be called upon as a witness, and I said that I would not swear falsely for the whole Anglesea estate. Mr. Mackercher asked me whether I knew Lady Altham, and whether Mr. Annesley was not like her. On my denying it, he asked me who was Jemmy Annesley's mother, and I told him that the answer to that question truly would be of no service to his cause, that Joan or Juggy Landy was his mother. Upon that Mr. Mackercher tore up the paper that he was writing and threw it into the fireplace. Neil O'Neill, the footman (the husband of Catherine Caulfield, who took care of the child at Carrickduff), clapped me on the shoulder in the presence of Mr. Annesley and Mr. Mackercher, and said to me that I need not live any longer in this place, and asked what place I should like to live in, but I just frowned at the fellow.

When I was in the service of Lord Altham I shaved him, and did everything he commanded me, and I also copied his letters. I remember on one occasion I was copying some denominations of lands to be sold in reversion to Mr. Onesiphorus Gamble. There was some talk as to whom the great estate should fall, and my lord said it would go to Captain Charles Annesley, but he would endeavour to get an English

Act of Parliament to settle the estate along with the titles on his brother. One time at Carrickduff, when I was in bed with a bad cold, my lord came up to me with some mulled claret. Master Annesley was playing about the room. My lord asked me if my mother was a Protestant or a Papist, and I told him that she was a Protestant, and then he said, "I'd rather than a hundred guineas that this boy's mother was so." My lord mentioned to me the name of the mother, and also of the grandmother. I used to go to Ross to see my friends, and when I did so Master Annesley would send his duty to his mother. I reminded him of that when I met him in Enniscorthy, and particularly I said, "Don't you remember I brought you a pair of stockings that your mother sent you?" Upon that Mr. Mackercher said that it was customary for Irish women to call the children they nursed their children, and for the children to call them their mothers. I told Mr. Annesley it was unfortunate for him that his mother lived so near my father's house, or else perhaps I should not have known her. I cannot remember whether this was before or after Mr. Mackercher tore up the paper, but I remember that Mr. Annesley trembled and looked pale when I mentioned that Joan Landy was his mother. Mr. Annesley said it was strange that I should not say what all the rest of the servants of the house said, and I replied, "Sir, you know I was nearer my lord, and knew better than the other servants that have said so." When I said I was nearer my lord than the others I meant that I was copying his letters, that I knew his secrets, being his immediate attendant. It was Joan Landy who gave me the pair of stockings to bring to the child; she bade me give them to her son along with her blessing. Mr. Mackercher said that it was quite common for nurses to send such trifles to their nursed children. Arthur Reed

Cross-examined—I think Captain Levingston was present during this conversation, but I do not think O'Neill was there. I have seen Lord Altham correct the boy several times in Frapper Lane. He was accused of pilfering, and he owned it himself to my lord. I never knew of any complaints being made of him by Miss Gregory to my lord. He was sometimes corrected also for not minding his book. I have heard my lord say that Mr. Carthy had complained of him.

Could not Carthy have corrected the boy himself?—It is likely that my lord was angry at seeing the boy so dull and backward. While I was with my lord my lady lived in Ross, and also at Charles Cavanagh's, near Frapper Lane. When I was an apprentice in Ross I saw her going to church and walking out to take the air. I was about seventeen years old when I went to live with Lord Altham. Master Annesley had then a scarlet coat made out of an old coat of my lord's.

Arthur Nerd

It was a very handsome dress, and my lord used to be merry, and say, "I keep my son in scarlet because his mother wore a red petticoat." I never saw Lady Altham wear a red petticoat. I cannot tell whether my lord ever dined at Mr. Byrne's or Mr. Cavanagh's while I was at Carrickduff. It was my general practice to wait on my lord at table. I have seen several of the Owens there, and also a Mr. Stone and others. Master Annesley never rode out with my lord to dinner to my knowledge. He never wore a feather that I saw, and he did not have a silk coat to my knowledge. He could not have had one without my knowledge unless it was past wearing. He had a little sorrel horse, and I have seen him ride his horse a-hunting with my lord, but he never went with my lord to visit the neighbourhood to my knowledge. He never dined with my lord when any gentlemen of any rank or appearance were present, but he would dine at my lord's table when little farmers and such sort of people were present. I told Captain Levingston that I had some charge over the boy, that I cut his hair and powdered it, but I did not say that he was put into my entire charge. I told them that Catherine O'Neill, the laundrymaid, had some care of the boy. Besides Straghan, the boy was taught by one Paddy, who by his way of speaking I took to be a Papist and Irish. He spoke this way, "Dampur's woyages, wolume the tird." I heard my lord say that Paddy was the son of Joan Landy's sister, and Master Jemmy Annesley and this Paddy used to call one another cousins. I told Mr. Mackercher and the other gentlemen that I had heard that the boy was sent from Mrs. Cooper's to New Ross by my lord to board there. I told him that I had heard he went to a weaver at Waterford.

Did you not tell the company that Lord Altham had debauched Miss Gregory?

Question objected to; objection sustained.

I don't remember telling the company that Miss Gregory used the child very ill, but I believe I did say so. I told them that I heard from a servant that one of the reasons Miss Gregory would not endure the child in the house was because she told my Lord Altham that he brought a frog into the house which caused her to miscarry. I was told that she used the child very badly, but I never saw her give him any ill-usage.

Did you believe that she ill-used him?—I did not see her use him ill at any time, and I believe she did not.

Did you not tell these gentlemen that she miscarried on account of a frog that the boy brought into the house?

Question objected to; objection sustained.

Miss Gregory was never married to my knowledge. I believe I told these gentlemen that Miss Gregory's mother had a great falling out with my lord, and I said that I had heard

that Miss Gregory and my lord were married privately in order to reconcile the mother. I don't remember telling the company that Miss Gregory was always called Lady Altham by the servants and the family, but I am not sure that I did not say so. She was not called so by the servants to my knowledge, but I heard afterwards at Ross that she was called so. The opinion of everybody about Carrickduff, so far as I heard, was that the boy was Joan Landy's natural son by my lord. I never conversed with any of the gentlemen. I cannot tell how the boys at Carthy's School looked upon this boy, nor did I converse with any of the housekeepers in Frapper Lane about him except Stapleton and Jane Lynch and another that sold drink, and they all knew what we know. I had never any conversation with Stapleton or Jane Lynch concerning the boy's being a bastard; it was so commonly known that there was no occasion for me to talk with them about it. The neighbours used to call the boy Jemmy Landy. I remember when my lord came up to me while I was in bed with a cold he sent Master Annesley for a horse whip to make me drink the mulled wine. Arthur Ford

Had Miss Gregory an influence over my Lord Altham or not?—I believe my lord would do anything in his power to serve Miss Gregory.

Was she a friend or enemy to this child?—I don't know anything, nor did I see anything of ill-usage from her to him.

Ninth Day, Monday, 21st November, 1743.

Henry Brown, examined—I went to Carthy's School in Dublin. I remember that one of my school-fellows was called Strong. I do not recollect the names of any of my other school-fellows, but there was a young man that went under the name of Lord Altham's son. He was reputed to be my lord's bastard son, but I don't remember any particular name that he went by. Last summer I saw a young man in Anne Street who, to the best of my knowledge, was the same person as that boy. I am now thirty-three or thirty-four years old, and when I was at Carthy's School I would be about thirteen or fourteen years old. Most of the boys that went to Carthy's School were the sons of low people, middling men. I do not remember seeing Mr. Carthy correct the boy. Henry Brown

Thomas Strong, examined—I used to go to Daniel Carthy's School in Frapper Lane. I remember one Annesley, one of my school-fellows, perfectly well. He was at Carthy's School T. Strong

T. Strong for a month or more while I was there, and he was reputed to be Lord Altham's bastard son. To the best of my knowledge the boys called him Jemmy Annesley. Most of the boys at that school were tradesmen's children barring him. I remember one Henry Brown, who was at school at the same time as I was. I cannot say that I have seen him within the last two years.

Cross-examined—I never heard the boys call Annesley "lord." I remember that Brown said that the boy was my lord's bastard. All the other schoolboys said the same, but I cannot name any one of them in particular that said so. There was never, to my knowledge, a lord's real son at that school. I did not know Mr. Byrne, the brewer, while I was at school, but I have known him since. I knew Patrick Plunket, who is a very honest man; he lived in the yard where the school was kept. I never heard from him that this was a bastard son of my lord's. We did not converse together, as he was a young man at that time and I was a small boy. He would know Lord Altham going backwards and forwards. I do not believe that Plunket would say a thing upon his oath that was not true.

T. Barret Thomas Barret, examined—In the year 1724 I knew a boy at Ross who went under the name of James Landy. I never heard him called by the name of James Annesley. I saw him within the last twelve months at Ross; he then went by the name of James Annesley. He stayed when he was a boy in my brother's house for about four months, and with me for eight or nine weeks, and he was reputed to be the son of Lord Altham by one Joan Landy. From what I could learn he had nobody to take care of him, and he came to Ross because the town belonged to his supposed father. The boy came from Carrickduff to Ross when my lord went to live at Island Bridge, and, as near as I can remember, that would be in the year 1724. One Mr. Wellman desired my brother to take in the boy, saying that my lord would one time or another make reparation. I have lived in Ross all my life. I remember seeing the boy there before he came into my hands. He was there with his mother. He was about five years old when he lived with his mother at Ross, and he would be there for at least two or three months. He lived with his mother, Joan Landy, till she married a second husband, and this husband would not allow the boy to continue in the house. I believe this would be about five years before I took the boy, because I remember he was eleven years old when he came to me. While his mother was at Ross she married one MacCormack. I heard that after he left his mother he came to Dublin. His mother never came to my house while he was with me. When

the boy was with his mother at Ross we used to call him Jemmy Altham and sometimes Jemmy Landy. I never knew the child before his mother brought him to Ross. At Carrickduff and at Ross he was reputed to be the son of Joan Landy by Lord Altham. I cannot tell where he spent his time between the first and second time I saw him at Ross. I saw Mr. James Annesley in Ross about a year ago, but I did not have any conversation with him. I knew him very well to be the same person as the one I had known at Carrickduff. I recognised him out of twelve or fourteen gentlemen who were riding into town. That was the first time I had seen him for these many years. T. Barret

Cross-examined—Joan Landy lived in Ross before she was married to MacCormack, and she continued to live there till three years ago. I cannot tell how old the child was before she married, nor can I tell how long she was in Ross before she married. It was common talk that the boy was Joan Landy's son. To the best of my knowledge the boy would be nine or ten years old when I saw him at Carrickduff. When he came to me at Ross I heard that Lord Altham was living at a place called Island Bridge. While he was living at Ross with his mother he seemed to be dressed in a sort of gown. I could not say that he then wore a coat and breeches. I did not notice whether he had the smallpox while he was staying with his mother, and when he was with me I saw no signs of his having had the smallpox. I cannot say how long Joan Landy had been living in Ross at that time.

William Napper, examined—I have lived in the town of Ross for about fifty years, except for about a year and a half. One Thomas Barret showed me a boy there and told me that he was a bastard son of Lord Altham by Joan Landy. I never saw him after that till about a year ago. I don't know that he would be the same person. I never heard that Lord and Lady Altham had a son at Dunmaine, and I never heard otherwise but that this boy was my lord's bastard son by Joan Landy. I was very well acquainted with Lord Altham, but not with my lady, although I have seen her a hundred times. I never heard it said that my lady had ever had a child at Dunmaine or in Ireland. I was very well acquainted with the late Lord Anglesea, and used to visit him very often. If Lord Altham had had a son I would certainly have told him about it. Lord Anglesea had some suspicion of some English affair, but there was never the least suspicion of their having a child in Ireland. I am married to a niece of Councillor Annesley in England. Arthur, the late Earl of Anglesea, came into possession of the Altham estate immediately upon the death of the late Lord Altham, and he enjoyed it during his life, for W. Napper

W. Napper ten years or thereabouts. I had a letter of attorney from the late Lord Anglesea to take possession of the Ross estate, and I gave minutes of it to the tenants. There was not one of the tenants of Ross ever made any objection on account of my Lord Altham's ever having had a son. If my lord had a son by his lady it could have been no secret, and I am sure we would have had bonfires, and the town would have been all in joy. It would have been known and talked of by the whole county—nay, I believe the whole kingdom, and all England would have heard of it. Lord Altham was reputed to have had a bastard son by Joan Landy.

Cross-examined—Had you any other knowledge of that boy that you saw at Ross but the information of Thomas Barret?—No more than what I heard from the whole town. All I know of the boy was by reputation. He lived in Thomas and Frank Barret's houses. I am not agent for Lord Anglesea in Ross. I know that Lord Anglesea and Lord Altham never had a good understanding from the time my Lord Altham took to his lady again. I don't know whether I knew Earl Arthur at that time or not, but I have heard him say that he was angry with my Lord Altham then. I remember the separation between Lord and Lady Altham. I don't know that the Earl of Anglesea and the late Lord Altham were reconciled upon that separation.

G. Brehon GEORGE BRETON, examined—I have been concerned as agent for Lord Anglesea in this cause, and I hope my testimony will not be injured by that. I do not apprehend I shall either gain or lose by the success of this cause, because as agent for the defender I believe I shall get the same if it does not succeed as if it succeeded. I was twenty-eight years old last April. I believe I know Mr. James Annesley. The first place I saw him in was Ross, when he and I were playfellows, about the year 1724. He then went by the name of Jemmy Altham. When I first saw him he was in a very miserable condition, almost naked. Hearing that he was my Lord Altham's son my compassion was raised, and I took an opportunity of giving him some assistance, and I frequently gave him bread and other things. I also took him to my father's stable, so that he could lie in the hayloft. He also stayed with Barret, but I could not say how long. In November last I heard that this Mr. Annesley was coming to Ross, and I waited a day or two to see him. When I saw him arrive I said to one Mr. Millbank that if it was possible for one to judge of a person at that length of time I believed that he was the same person. I knew him by his nose—he had a high nose. I have seen him several times since, and as his face grows more familiar I believe that he is the same as I used to know at Ross. He

was reputed to be my Lord Altham's natural son by one Joan Landy, who sold bread in the town of Ross. S. Brelton

Cross-examined—When I knew Jemmy Altham in Ross I was about ten or eleven years old. I think he would be somewhat older, because he was bigger than I was. I continued to go to school a good while after I saw the boy at Ross. I cannot tell how long I knew the boy, whether three months or twelve months. My father left his house about Christmas, 1727. To the best of my knowledge, I saw Joan Landy at Ross while the boy was there. I myself took the boy into my father's hayloft. I don't know whether Joan Landy had a house or not at that time, but I know she was in town, because the boys used to say when we met her that that was the mother of Jemmy Altham. I cannot tell how long she had lived in Ross before that time. I am certain it was not five years before 1727 that I saw the boy, because I could not remember so far back. After he got into Francis Barret's house he was better provided for than he was when I saw him first. The first school I went to was Mr. Cullen's, and then I went to Mr. Pigot's school when I was about eight or nine years old. I stayed there for four or five years, and then I went to Buckley's writing school. I cannot tell how long I continued at that school. I then went back to Mr. Pigot's. It was when I was at Mr. Pigot's school the first time that I knew this boy. I cannot tell whether he went to Thomas Barret's house or not. I believe the boy came to lie in my hayloft rather than go to his mother, because she had not the wherewithal to support him. I don't know whether she was married or single at that time. I never knew one Edward Lutwich, of Ross, a trooper.

Elizabeth MacMullen, examined—I knew my Lady Altham about three-quarters of a year after she first came to Dunmaine. I was living at Ross at that time, and I visited her once at Dunmaine. After she left I saw her at Captain Butler's house in Ross. To the best of my knowledge, she stayed in Ross for between three and four years, and for about two years I would visit her twice a week, I believe. She went from Ross to Charles Cavanagh's house in Stable Lane, Dublin, and she stayed there for about a year. While she was there I seldom missed a week without seeing her. I left Ross in 1719, and came to Dublin, and settled in Bridge Street, where my husband kept a shop before I married him. I cannot remember how long my lady continued at Ross after I left, nor can I recollect when she came to Mr. Cavanagh's house. After leaving his house she went to Alderman King's house, where she stayed for about a year. She was ill in that house, and was attended by Dr. Irwin, and at that time I was there every E. MacMullen

E. MacMullen night. She then came to lodge with me in Mountrath Street, and stayed with me for eight or nine weeks. I have heard her say several times that she wished she had a child. She gave me no reason why she wished to have a child. I never heard it said that my lady had ever had a child, male or female. The general reputation was that she had never had a child by my Lord Altham while she was in Ireland. I never saw any child with my lady while she was at Ross or Dunmaine. After staying with me for eight or nine weeks she left for England. Mrs. Heath, her woman, and I put her on board ship. A night or two before she left she asked me to let her know in case my Lord Altham should die, and I promised that I would write Mrs. Heath. I kept my promise, and sent over an account of the manner in which he was buried. I watched the funeral, and I saw a boy crying out "Oh, my father, my father." I asked the boy who he was and who his mother was. He told me that his mother was Joan Landy. When I wrote to Mrs. Heath I told her that Joan Landy's son, Weedon, the coachman, and his wife were the only weepers there. While my Lord and Lady Altham were at Dunmaine I was told by one Mr. Taylor and one George Sutton that the general reputation was that Joan Landy had a son there by my Lord Altham, but whether that was the case or not I cannot tell. When I saw the boy at the funeral I paid no great attention to his dress, but he appeared to me like the other blackguard boys of the crowd. I don't know that I have seen that boy since.

Cross-examined—I lived in Ross with my father, who kept a very great inn there. My Lord and Lady Altham used to dine there before the separation. I never saw my lord bring a young gentleman in the chariot to the house. I was twenty years old when my Lord and Lady Altham came to Ross. I believe they lived about two years at Dunmaine. I know that after the separation my lady came to Ross on a Sunday night when it was late and dark.

Was my lady reckoned a proud woman in her temper or otherwise?—She was reckoned a very high woman. I became intimate with her immediately she came to Ross. I knew her because she and my lord often used to come to our house before that time and dine with my father, Israel Boucher. I never used to draw the ale, but if I did it is what my betters have done. It is not the case that my father just kept a common alehouse. His inn was just by the Cross, up towards the hill. It is not the case that I acted as a servant to my father and made the beds.

You were kept up like a gentlewoman?—Yes, as a great many more are. I left Ross in the year 1719, about two months after I was married, which was on 19th January. I lived in Bride

Evidence for Defendant.

Street, Dublin, for two years, and then we moved to Tash's S. Stephen's Square. I cannot tell what year it was that Lady Altham came to Dublin, nor can I tell how long she was in town before she came to live with me. I do not know one Margaret Hodgers in Dublin, and I cannot tell whether my husband was acquainted with her. I heard that there were lodgings taken there for my lady, but I did not know who took them. When my lady came to town she was very ill, and could only walk with her woman holding her by the hand. She never told me that her disorder was got by a cold that she caught when lying in at Dunmaine. I have heard that women frequently catch cold and lose their limbs by lying in, but I never heard that she did. I never asked her when this disorder first came on her. I cannot tell how she was in regard to her limbs when I visited her two or three days after she came to Ross. I saw her walk indifferently, and she said that her limbs were very bad. She sat most of the time I saw her, and she went to church in a chair. I never asked her or Mrs. Heath how it was that her limbs were disordered. I took it that her disorder came from grief, because she was crying for several weeks after she came to Ross. I never knew one Mr. Lutwich. I never took notice of my lady's shoes, nor do I know who was her shoemaker, unless it was Mr. Allan, who was the best shoemaker there. I cannot tell in what state of health my lord was when my lady went to England. I promised that I would write to her maid instead of to herself, because she was sickly. My lord died in the year 1727, and I knew of his death before his funeral, because I heard it cried out in the news. I watched the funeral from the corner of Christ Church Lane, and I followed the corpse into church. He was buried about ten o'clock in the vault at the right hand going in. I saw but one clergyman. I did not see the choir attend the funeral, nor Mr. Hawkins, the late King-at-Arms. I do not recollect now who were the bearers. When I spoke to the boy he was standing near the opening of the vault. I was surprised to hear him call himself my lord's son, and I asked him who his mother was. I spoke to a great many about this boy's crying. I never mentioned the story till about a year or two ago, when it came into my mind. My husband is dead. I think the boy I saw at the funeral wore his own hair, but I cannot tell what colour it was, nor did I observe his clothes. I never heard that Lady Altham miscarried when she was at Dunmaine. I know Mrs. Lennox, the banker's wife, in this town. It is not the case that I ever said to her that Lady Altham miscarried when at Dunmaine. I think I was lodging at Mr. Smith's when Lady Altham came to town, and after that I lived with the Honourable the Lord Mountjoy. I now live in service with Mrs. Leigh, of the county of Wexford.

E. MacMullen You mentioned something about never hearing of my lady's having a child in Ireland. Did you ever hear of her having a child anywhere else?—No more than a flying report that she had one in England or somewhere. I never had a conversation with James Reilly as to my Lady Altham having had a child. It is not the case that I said to Reilly or his wife that the present plaintiff had the right to this honour and estate.

M. Devenish MATTHEW DEVENISH.

[Counsel for the plaintiff objected to this witness that he was consequentially interested in the fate of this cause, as he might lose his agency or receivership.

The Court stated their opinion that this did not go to his competency but might go to his credit.]

Examined—I knew the late Lord Altham very well from the time he lived at Carrickduff till his death. I never heard him say anything concerning a child of his. I saw a boy clothed in red while my lord lived at Carrickduff, but I never had any discourse with his lordship in relation to that boy. I never heard that Lord Altham had issue by my lady. I cannot say that I had a very great intimacy with my lord at Carrickduff, but I have dined with him. No boy ever dined there while I was there.

J. Medlicott DR. JAMES MEDLICOTT, examined—I knew the late Lord Altham when he was living at Kinnea. I sometimes dined with him at his house and at other gentlemen's houses in the country, particularly at Mr. John Annesley's, at Ballysax. I remember hearing Lord Altham say at one of these houses that he had reason to expect that some time or other he would be Lord Anglesea, but that when he should happen to die he did not know what would become of that fortune, adding, "As I have no son of my own, nor know naught if I ever shall, I don't care if the devil has it or what becomes of it." I cannot tell when it was that my lord said this, but it was when he was living at Kinnea. I don't know that I ever heard from my lord anything relating to Mr. Charles Annesley. I do not know whether there was any child with my lord at Kinnea.

Cross-examined—I cannot recollect where this discourse happened, nor can I remember who was in the company at the time. I do not think I should have recollected anything if that particular expression had not struck me. I forgot about it till this dispute arose, and then the thing came back to my mind again. I did not know the present Earl of Anglesea till he became Lord Anglesea.

Evidence for Defendant.

Colonel William Becket, examined—I was first acquainted with the late Lord Altham somewhere in Essex Street, about eighteen or twenty years ago. I afterwards saw him at Inchicore. There used to be some little bickering between my lord and his brother, Captain Annesley. One day there was a quarrel between them, and I heard him afterwards say that he wished his natural son was a legitimate son, so that he might cut his scoundrel brother out of the Anglesea estate. It was always reputed in the country that he had a natural son and no other. W. Becket

Cross-examined—After I got to know Lord Altham at Essex Street our acquaintance was never broken off. I am sure there was never a whole year together that I did not see him. I believe there was not more than a year's time between his living at Mrs. Vice's house in Essex Street and his going to Inchicore. At the time my Lord Altham mentioned that he wished he had a son so that he could cut his brother out of the estate, my son, Cavanagh, a dancing master, and several gentlemen about the country were present. The conversation took place in the parlour at night, before supper. My son and I stayed till three o'clock the next morning. We had dancing that night, but I do not recollect what ladies were there except Miss Gregory, who was a relation of my Lord Altham's.

Was this declaration of my lord's made after you had drank pretty heartily?—No; it was not. Miss Gregory was not present.

Wentworth Harman, examined—I was very well acquainted with the late Lord Altham from the year 1713 or 1714. I knew him when he lived at Kinnea. I believe I was as intimately acquainted with him as with any man in the world. I heard he had a child at Kinnea, but I never saw one there. I often heard him lament greatly that he had not a child by his wife, and that it was a great detriment that he had not. I have often heard him speak of a bastard child which he said he did not know whether it was his, his brother's, or his footman's. I asked him why he did not get a child by his wife, and he said that she was not capable of bearing a child, and that he therefore hated her. I frequently saw him after this conversation, and I believe he never lived with his wife afterwards. W. Harman

Cross-examined—I was first acquainted with Lord Altham in the year 1714 or 1715. I believe I got to know him immediately after he came to Ireland. I never saw my Lord Altham with his lady in Dublin, nor do I know where Lord Altham lived at the time of the Queen's death. I often saw Lord Altham at Inchicore, and had discourse with him there concern-

W. Harman ing his son. I applied to my lord to give the boy clothes, but I do not remember whether that was at Kinnea or where it was. I believe it was after the Queen's death. I never saw Lady Altham. I only heard lately that my lord was separated from his wife on account of one Mr. Palliser.

C. Stone CHRISTOPHER STONE, examined—I know John Purcell the butcher. His son is a tenant of mine. Purcell said that some considerable time ago he happened to be in Smithfield and saw a young man riding a horse there with a thumb rope about his middle, and he was told that this boy was the son of Lord Altham. He took the boy home with him, and one day Mr. Annesley, the present Earl of Anglesea, came to his house and asked if there was one Jemmy there, and he told him that he was in the house, but that he was not fit to be seen, as he was just out of the smallpox. Mr. Annesley said that he would speak to his brother to acknowledge his civilities, and said to him that he should take the boy as an apprentice, but Mr. Purcell said that he would not take him as an apprentice, because he hoped he was born to better fortune.

Cross-examined—I believe that Purcell is an honest man.

Hannah Shaw MRS. HANNAH SHAW, examined—I know one Catharine MacCormick, who papered a little room for me between September and October. She said there were some people who had asked her whether Lady Altham ever had a child or not, and she told them that she never was with child or had a child, and that if she was called to give evidence she should give it against them. I am positive she said to me that she had told them that my lady never was with child, and bade them not to call her as a witness because she would be against them.

Cross-examined—She said that she told them that she believed my lady never had a child at Mrs. Vice's or anywhere else.

Evidence for Defendant closed.

Further Evidence for the Plaintiff.

C. Colclough

Cæsar Colclough, examined—I was present at the trial of Mr. Masterton at Wexford. He was a very near relation and particular friend of mine, and I went to his trial to see that, as far as in me lay, justice should be done to him. The trial took place at the spring assizes, in the year 1715. I do not believe that Lady Altham was in Court, and I further believe she was not in the town that day. I do not remember to have seen any woman of fashion at that trial. I do not think that Lady Altham could have attended that trial and sat near me without my recollecting her now. I do not believe that Mrs. Giffard sat near me at the trial. I do not recollect her being present. If I had seen her and Lady Altham there I would have known them. While I was in Court I was taking care of Mr. Masterton, and I should not at that time have sat by the fairest lady in Christendom. Mr. Doyle was not tried at that assizes. I am certain that if there had been any ladies of distinction in the town that day I should have heard of it. I heard that Lady Altham was in Wexford in the year 1716, when Doyle was tried for drinking treasonable healths.

Cross-examined—Mr. Masterton and Mr. Walsh were tried together. They were uncle and nephew. It is usual for some ladies from the neighbourhood to go to the assizes, and they call them "assizes ladies" because they commonly go there. I do not think it is usual for ladies of fashion to go. I knew Mrs. Giffard, but I do not know whether I should know her if I saw her now. I was never well acquainted with her. I knew her husband a little; he was a justice of the peace, and reckoned a poor man. I cannot say whether Mrs. Giffard is a woman of veracity as I had but a small acquaintance with her. The family is reduced and very poor. Their circumstances are altered, and so may their honesty be for aught I know.

John Hussey

John Hussey, examined—I know Mrs. Heath. About two years ago I went with a gentlewoman to Mrs. Heath to drink tea in Holborn. As Mr. Annesley was the common subject of conversation in the coffee-houses then, we began to talk about him. I do not know whether she or I introduced the subject, but, to the best of my memory, she said, "Nobody knows that young man's affairs better than I, because I long lived with his mother, the Lady Altham," and she expressed a great deal of concern for him and the circumstances he was

John Hussey

in. She also told me that the Duchess of Buckingham had sent for her three times, but I do not remember that she told me the import of the conversation she had with the Duchess of Buckingham. To the best of my remembrance she said that the Duchess had sent for her concerning Mr. Annesley. I am quite sure that Mrs. Heath said that the young gentleman was very much injured, and that nobody knew better than she, because she had lived long with the Lady Altham, his mother. She said that she believed she should come to Ireland, but I do not remember that she said that she expected anything.

Cross-examined—I came to Ireland in the end of last July, and I live at a place called Plainstown, about 14 miles from Dublin. I have seen Mrs. Heath several times. To the best of my recollection, my acquaintance with her began about five years ago. I mentioned the conversation at my sister's house in Smithfield, and also at my own house in the country. I have spoken of it a hundred times in London, when there was a conversation about it in the coffee-houses. I told a gentleman—I forget his name—to tell Mr. Annesley's people about it. I saw Mr. Mackercher at the Globe Coffee-house about a twelvemonth ago, but I never spoke to him or any of the agents till Friday last. I was in Ireland last year—I came to Ireland a twelvemonth ago. Before that I lodged in Orange Street near St. James's, in London. I dealt in hollands, cambrics, and other such goods, and I used to wait on His Majesty to Hanover. I was steward in one of the yachts. I only once heard Mrs Heath make the declaration that I have mentioned. There were present Mrs. Simpson, a daughter of Mrs. Heath's, and a young gentleman that lodged up one pair of stairs in Mrs. Heath's house. I had visited Mrs. Heath before this. I was first introduced to her by Mrs. Simpson. I never heard Mrs. Heath say that Lady Altham never had a son, but she told me she believed she was to go to Ireland to be a witness for Lord Anglesea, and then she differed very much in her way of thinking about Mr. Annesley from what she did last summer. I had no conversation with her that time touching the evidence she was to give on the part of Lord Anglesea, but when she said she believed she was to go to Ireland I said, "Surely if you go you must be well paid for your time." I thought she had changed in her opinion, because at our last conversation she seemed to be very strenuous for Lord Anglesea, while two and a half years ago she had expressed great concern for the young gentleman. I am quite certain that when Mrs. Heath said that nobody knew the affair better than she, she used the words, "Lady Altham, his mother." I have never followed the trade of tailor. When I held an employment under the Crown it was

only when the King went abroad. I was employed by the Board of Green Cloth, but it was merely to be aboard the yacht, and I was never sworn. I am a Catholic. I heard some people say that Mrs. Heath made the use of the name of Mr. Hussey in her evidence. John Hussey

Mrs. Mary Heath, recalled—I know that gentleman (pointing to John Hussey), and have seen him several times. He drank tea with me several times after the report came concerning Mr. Annesley, and we had a number of conversations about it. I said what a vile thing it was to take away the earl's right, that my lady never was with child. I can say no more even if you rack me to death. I have known Mr. Hussey for three years or more. I can say nothing of his character, except that some said he was a gentleman's servant, and some said he lived by gaming. If he says that I said that my lady had a child, then I cannot say that he is an honest man. I never said that nobody knew that young man's affairs better than I did. Mary Heath

Did you ever in Mr. Hussey's presence give it as a reason why you should know the young man's affairs, that you had long lived with Lady Altham, his mother?—No, I never did; and if I was to be torn to pieces I would say no such thing.

To Mr. Hussey—Repeat the words you heard her say?—Mrs. Heath said to me, "Poor gentleman, I am sorry for him from my heart, for no one has reason to know his affairs better than I do, for I lived long with my Lady Altham, his mother."

Mrs. Heath—By all that is good and great I never said any such words. I never thought that you were such a man. I have heard people say that you were a gamester and lived in an odd way, but I would never believe it till now; I always took your part and said that you always behaved like a gentleman.

Mr. Hussey—I am a gentleman, and I can bring several people to justify me to be a gentleman and a man of family. Indeed, I have heard you say it.

To Mrs. Heath—Do you remember the time that Lady Altham went to Wexford Assizes?—Yes, I remember my lady came home and told me how handsomely Mr. Walsh pleaded for himself. I don't know what day of the week it was that we went to the assizes. Lady Altham never lodged more than twice at Mrs. Vice's house. I do not know Mr. Higginson that was receiver to Arthur Earl of Anglesea.

John Hussey, cross-examination continued—I did not know before last Thursday that I was to be a witness in this cause. Had I not been subpœnaed I would not have come. I did John Hussey

John Massey not ask Mrs. Heath why she had changed her mind about the young man. I thought she had changed her mind, because the first time she said she was so much concerned for the young gentleman, and the second time she said she was to be a witness for my Lord Anglesea, from which I understood she was going to give evidence for my lord.

Why did you not expostulate with her then?—Why, it was no affair of mine.

Did she say she was coming over to be a witness in the trial of Lord Anglesea?—I believe she did say so.

If you think she said so, how could you gather that she had changed her mind?—Because of her naming the words "Lord Anglesea." I did not know but it might be in his favour. I could not say whether what she told me in the first conversation was truth or not, because the thing was indifferent to me. I cannot say whether I recollected at the second conversation what had passed at the first, but I recollected it after I heard that there was to be a trial. I remember the precise words of the conversation, because I have spoken of them from time to time, and have refreshed my memory.

T. Higginson THOMAS HIGGINSON, examined—I knew the late Lord and Lady Altham. I was receiver of the late Earl of Anglesea's rents in the county of Wexford from 1711 till 1716. I went to Dunmaine on Tuesday after Easter Sunday in 1715, and met there John Weedon, the coachman's wife, and another young woman—I do not remember whether they called her Nanny or Molly. They told me that my lord was abroad, and I was turning to go away when my lady came down and bade the young woman give me a glass of wine, and after I had finished that she gave me another glass. She was big-bellied, and her face was a little lank. At the second glass I wished her a happy delivery. I then went to Major Rogers at Enniscorthy. The spring assizes at Wexford in the year 1715 were held on Saturday, 16th April. I went to Wexford on the Thursday morning, and I paid some money to my Lord Altham there. I did not have any conversation with Lord Altham concerning my lady. I did not go into the Court. I was in the big inn along with my lord, and we had a pint of wine. I do not know whether my lady was in town or not. I rather think I saw Mr. Colclough at the time of the trial. I heard after I returned home that Mr. Masterton and Mr. Walsh had been tried. I can be particular as to the time I went to Dunmaine, because I entered all the money I received into my Lord Anglesea's book when I went home. I received (and entered in my book) £4 from Mr. Houghton the day before I went to Dunmaine, £10 from Mr. Giffard on Thursday, and £20 from

Colonel Sutton on Monday. I looked over my book on Sunday a week ago. I handed to Lord Altham £28 which I received on the Wednesday in the Easter week from my son, who had collected it from the tenants. T. Higginson

Cross-examined—I went to Dunmaine first on the Tuesday, and then to Enniscorthy. I had really very little business at Dunmaine. I only wished to tell my lord that I expected my son home on Wednesday with the money. I did not very often see Lady Altham before the separation, but after that I saw her at Ross frequently. I had seen her at Ross church before I saw her at Dunmaine on the Easter Tuesday I have spoken to. Arthur Earl of Anglesea always said that he was heir to his cousin Altham, and my lord said the same of him. The Ross people in June or July, 1715, were saying to my Lord Anglesea that Lord Altham had got a son, and were wishing that my Lord Anglesea had got a son too, to which my Lord Anglesea said that there were no hopes of that. I believe Lord Anglesea had a wife at the time the Ross people said that to him. I have always believed William Napper to be a good man.

Nicholas Loftus, recalled—I have known Mrs. Giffard, the widow of Ravenscroft Giffard, for a great many years. I believe she is a woman to be believed upon her oath. I only know Mr. Higginson by sight. I do not know William Elms. I have never seen Mrs. Lambert, but I don't know what stress is to be laid upon the testimony of a woman that lives with another man while her husband is alive. N. Loftus

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Tenth Day, Tuesday, 22nd November, 1743.

William Stephens, examined—I know Arthur Herd. When Mr. Annesley first came to Enniscorthy there were a number of people with him. I asked Arthur Herd what strangers they were, and he told me that they were the young lord and his friends, "He that is putting in for the Earl of Anglesea's estate." I asked if this was the right heir, and he said, "He is the right heir, if right would take place." That conversation took place in the street facing Arthur Herd's own house. W. Stephens

Cross-examined—There was no one present but ourselves. I have known Arthur Herd for five years, and I have never heard him to be anything but an honest man. I think he is to be believed upon his oath. I told Bartholomew Furlong that Arthur Herd had said to me that Mr. Annesley, if right would take place, was the right heir. I told him that because I

W. Stephens heard that Arthur Herd was a very material witness. Furlong did not tell me that he knew anything about the matter; I did not ask him what he was going to do. I don't know for whom Arthur Herd gave evidence. I was served with a subpœna on Sunday last by one O'Neill, who came with me to town. I had no discourse with him concerning the testimony I was to give. He did not tell me what evidence Herd had given in Court. He did not say that I was to give evidence against Herd. I have got nothing but a shilling that was left with the subpœna, and I have been promised nothing for coming to town. I cannot say who hired the horse on which I rode to town. I have no trade. I don't say that I am a gentleman or a farmer. I keep an alehouse.

W. Houghton WILLIAM HOUGHTON, examined—I have known Arthur Herd very well for the last fifteen or sixteen years. I went into his shop two months ago to get a wig made. We happened to have a little talk about the Earl of Anglesea, and Mr. Herd told me that Mr. Annesley was the true, lawful born son, as he thought in his conscience, and that he was the true heir to this estate that the Earl of Anglesea possesses. He told me that he knew him from a child.

Did he name any place where he knew him?—He knew him at Dunmaine, and at Ross, and several other places, and so did I, for I made the first stays that ever he put upon his back.

Cross-examined—Mr. Herd said that he believed Mr. Annesley to be the true heir, and he said that he knew him at Dunmaine and Ross. I am quite sure that he said that he knew him at these two places. I am fifty-three years old, and I have lived in Enniscorthy for the last thirty years. A letter came to Mrs. Synnot giving an account of this trial. She showed me the letter. There was a great deal in it relating to Herd's swearing that the plaintiff was my late Lord Altham's bastard son by one Landy. I told her that I had heard Arthur Herd express himself that Mr. James Annesley was the lawful heir. My conscience pricked me, and I resolved to come to town to do Mr. Annesley all the justice that lay in my power from what I had heard Arthur Herd say.

John Ryan JOHN RYAN, examined—I know Father Michael Downes very well. He told me that my Lord Altham in his house once desired a child which was along with him to get up, and said, "Rise up, you bastard, and salute the man that made a Christian of you," "and," says Downes, "I'll swear to that, and banish this man, and I am to get £200 for it." This conversation took place on a Sunday in the summer or harvest

of last year. I said to him that I supposed his memory was John Ryan
old, and that he could not swear those things, but he said that he would apply to a gentleman for a remedy, and if that gentleman would not give him a remedy another would. He said to me that if he did err he expected to get an absolution for it. I was doubtful of his memory, and that was all. I suppose he was to get absolution if he swore to a thing that he did not remember. I do not know whether he applied to anybody for an absolution.

Did he say he would apply after the trial was over?—He spoke of no trial to me on that occasion.

Cross-examined—It was at his own house that Father Downes said he was to get £200.

Are you his confessor?—It was no confession. It was discourse that he had with me. I am a Roman Catholic.

Did you follow any business, or are you of any profession?

The Court—You need not answer that question if you think it will criminate yourself.

The Witness—I refuse to answer that question.

Cross-examination continued—I went to Downes's house because I wanted to see him. I had an occasion with him.

Did you understand he was going to swear to a falsehood, and was to be paid for it?—I don't know whether he was going to swear a lie or not.

But what did you understand?—Upon my word I was afraid there might be a corruption. When he said he was to receive £200 I did not understand what he meant, but I was afraid that there was some corruption.

What do you mean by corruption?—I mean when a man receives a bribe or a fee to swear false. Father Downes has the reputation of being a loose man in his tongue, a man that can keep no secret, but will divulge everything that he knows. I am not positive whether he would say what was false upon his oath for profit—I don't know whether he would do so for £200.

According to your Church, can a man that declares beforehand that he intends to commit a premeditated perjury be absolved?—No, a priest won't give him absolution. No priest will absolve a man that says, "I'll swear a false oath and desire absolution for it."

Will a priest absolve him after he has committed perjury?—He would, with repentance, to be sure.

Michael Downes, recalled—I saw John Ryan last Easter, M. Downes
but not since then. I had no conversation to my knowledge with him relating to what I would disclose upon this trial.

John Ryan—Father Downes certainly had a conversation with me on a Sunday morning in the summer or harvest of last year. I rode as far as Tyntern with him.

John Ryan
M. Downes

MICHAEL DOWNES—I did not ride with John Ryan on a Sunday.

JOHN RYAN—I rode along with you to the place where you used to say mass, and mass was not had there because a woman was dead in the place, and so we rode on to Tyntern.

FATHER DOWNES—If that was the time I believe I was with you.

To MICHAEL DOWNES—Upon your oath, had you any conversation with Ryan relating to this trial?—Upon my oath, I had not. It was none of my business to be talking about it on Sunday morning.

By the COURT—Ryan tells us that Lord Altham said in your presence, "Rise up, you bastard, and make a bow to the man that made you a Christian," and you told Ryan that you would swear to these words and banish the man (meaning the plaintiff), for which you were to have £200?—Well, then, I'll tell you, by the virtue of my oath, I have been familiar with Lord Altham, and I was never promised a farthing from my lord; and if you believe this gentleman you may hang me, for he is a vile, drunken dog. I do not remember that man saying anything about my being old and that my memory was weak. I never said anything to Ryan about his procuring my absolution, nor had I ever any such conversation with him to that or the like effect.

You have given your negative answer to the whole conversation. It is possible that you may truly swear now that that exact precise conversation did not pass, but did any conversation to that effect pass?—I can swear positively that I had no conversation of that kind with him at all.

Can you in your Church give absolution for a wilful false oath?—We cannot absolve without a public satisfaction for a false oath. I have never got a ha'penny nor a promise of one from the present Lord Altham. I have never received money or promise of money from any man living about this trial.

JOHN RYAN, cross-examination continued—I have been living since August last at Ballykihoge, which is between Wexford and Enniscorthy. I have been in the county of Wexford for about two years. Before that I lived in Aghabo, in the Queen's County, for about two years. I lived there in a house of my own. I know Mr. Baggs, a farmer there, and I also knew Mr. Webb. The parish priest of Aghabo was Darby Cleary. I removed to the place where I am now because I thought it better.

Would not a priest give absolution in the case of a man who had made a mistake in his memory?—Yes, upon repentance.

Father Downes told me that he had a doubt, that if he should make a mistake he would apply for a remedy. I told him that he was very old and sickly, and was always concerned in every cause that was stirring in the neighbourhood, and his memory might fail him. John Ryan

If Father Downes should die, are you to get his parish?—I am not to get his parish or anything else. I told this conversation that I had had with Father Downes to one Kelly, in Ross, about a fortnight ago, and also to one John Hickey, who is a clergyman that is waiting for a parish.

Is not Kelly a man that is employed to collect witnesses for Mr. Annesley?—I don't remember that I ever heard he was a man gathering witnesses. I have been living in the White Cross Inn, in Pill Lane.

Are not the witnesses for Mr. Annesley kept at that inn, or some of them?—Indeed, I suppose they may be.

Why cannot you answer directly?—They are. I have never been in that inn before. Kelly told me that what I had said to him in Ross would be material to give in evidence, but I said that I would not give evidence. Kelly came to town with me, but he introduced me to nobody at the inn except the man of the house. I saw Mr. Annesley; I introduced myself to him.

Further Evidence for the Plaintiff closed.

Serjeant Marshall mentioned the limitations of the estate by the will of Earl James, and observed that Lord Altham was tenant for life, remainder to his son, and that by concealing that he had a son it was easier for him to sell reversions; and that it was his interest to conceal that he had a son from his creditors; that though sometimes the Lord Altham and the present defendant were not upon good terms, yet they joined in setting reversionary leases. He then set forth the limitations of the wills and codicils which were on the table. Serjeant Marshall

Nicholas Loftus, recalled—I know Michael Downes, parish priest of Tyntern. He has been a tenant of mine for twelve or thirteen years. He has a good character. I know nothing of him but the general reputation that he behaves well in the country. N. Loftus

Do you think that, if he had £200 offered him to say anything particular upon his oath, and could be absolved, he would not swear to it?—I cannot say anything to that, but I should believe him upon his oath.

Would you, under the circumstances that have been mentioned?—I cannot say that.

Mr. Baron Mountney—Let somebody be sent for Mrs. Heath, Mrs. Cole, and Eleanor Murphy. We must examine them again, because much of this cause depends on their testimony.

E. Murphy

Eleanor Murfey, recalled. I never knew Rolph at Lord Altham's house. I cannot be positive who was butler in the house while I was there. I was employed under the laundry-maid.

Who were the servants that lived there at the time my Lady Altham was brought to bed?—There was Mrs. Heath for one, and Anthony Dyer for another. I cannot remember what was the nature of Anthony Dyer's service. I cannot say whether I would know Anthony Dyer by sight, as it is a long time ago since I saw him. I think that the Christian name of the gardener was Arthur. Mary Doyle was housemaid at that time. To the best of my knowledge, the name of the coachman was Weedon. I do not remember one Mary Waters or one Mrs. Setwright. I was at Dunmaine when Lady Altham came. I do not remember any housekeeper being brought down by her. As far as I remember, a woman cook came along with her, but I don't remember her name. I do not remember one Betty Doyle. I do not remember there being a man cook at Dunmaine in my time. I do not remember one Michael Foster. I remained in the service for about three-quarters of a year after Lady Altham came. I do not remember who was laundrymaid at that time. I remember Mary Doyle because she was a noted servant in the house. There was a woman, whose name, I think, was Murphy, employed to weed in the garden. I don't remember her being called Black Nell. I do not know whether Mrs. Butler, of Ross, is dead or alive. I do not know whether Lady Altham had been at Dunmaine House before I was a servant there. I was hired by Mr. Taylor, and I heard that there was a lady that was going to come home. I saw Lady Altham in Mrs. Butler's house before I was hired. I cannot tell how long that was before she had a child.

Look at that man (pointing to Rolph). Did you ever see him before?—I never saw or heard of him before, upon my oath.

Thomas Rolph

Thomas Rolph, recalled—I never saw that woman (Eleanor Murphy) before that I know of. I entered Lord Altham's service about the end of 1711 or the beginning of 1712, and I continued butler with him till I left between Michaelmas and Christmas of 1715. I do not remember the time that my Lord and Lady Altham came together in Dublin. There was no servant of the name of Charles Meagher at Dunmaine during my time.

Further Evidence.

Mary Doyle, recalled—Do you know that man (pointing to Rolph)? Did you ever see him before?—There were a great many people I knew since I came to town that I did not know before. I was in service at Dunmaine about three months before my Lady Altham was brought to bed, and I stayed about five weeks after While I was there the butler was one Charles Meagher. I do not remember the name of Rolph—he was not there in my time. Mary Doyle

To Thomas Rolph—Do you remember anything of her (pointing to Mary Doyle)?—I don't remember to have seen her face before to my knowledge.

To Mary Doyle—Do you know anybody that remembers this Charles Meagher besides you?—Yes, there are Bryan Cormack and Dennis Redmonds.

To Eleanor Murphy—Who came into the service first, you or Mary Doyle?—Mary Doyle did, and I stayed on after Mary Doyle left.

To Mary Doyle—When did you come into the service?—After Christmas, but I cannot tell how long after.

To Eleanor Murphy—You are sure that you came into the service after Mary Doyle?—After her; no, I was there before her. I am quite sure that I was there first, and had been there for nearly a quarter of a year. I was at Dunmaine a good while before my lady came. I do not know what time of the year it was when my lady came. Before I came to Dunmaine I was in Mrs. Butler's service at Ross, and I saw Lady Altham there. Dennis Redmonds was a servant in Dunmaine House; he went errands, and he was there before I came. Joan Laffan was not there when I came.

To Thomas Rolph—Do you remember Joan Laffan?—No. She was not at Dunmaine in my time. I was in the service when my lord and lady came down to Dunmaine at Christmas, 1713. Lord Altham stayed for two or three days at Wexford, and when he came back to Dunmaine he remained there two or three weeks, and then went to Dublin. I do not remember whether my lady went with him to Dublin or not. Before I came to Ireland I kept a public-house in Chelsea, next door to Lord Altham's house. I was married, and my wife used to assist me in my business. I never received any wages from my lord nor did I ever demand any. He was owing me £20, or a little less.

Joan Laffan, recalled—Look at that man (pointing to Rolph). Did you ever see him before?—Indeed I cannot tell. To the best of my knowledge the butler at Dunmaine during my time there was Charles Meagher. Joan Laffan

Joan Laffan

To THOMAS ROLPH—Look at that woman (pointing to Joan Laffan). Do you remember to have seen her before?—Never.

To JOAN LAFFAN—Who was butler before Meagher?—Indeed I cannot tell, but I heard there was one Rolph in it before.

Do you know these women (pointing to Murphy and Doyle)?—Yes, I have known them for above twenty years. Neither of them was in the service at Dunmaine during my time, but I heard that they had been. To the best of my knowledge I came to Lady Altham very late in the harvest. My lady was at Dunmaine at the time, and she hired me.

Can you remember whether it was before or after Michaelmas, 1715, that you were hired by my lady?—Upon my word, I cannot exactly remember.

Was it about All Hallowtide?—Somewhere thereabouts. Charles Meagher was the butler in the house all the time I was there. To the best of my knowledge he had come there shortly before I came.

To THOMAS ROLPH—Can you recollect whether it was before or after harvest in the year 1715 that you left Dunmaine?—It was after harvest. I am positive of that, because it was after Michaelmas that I left, and the harvest is commonly in before Michaelmas. My Lord Altham was in Dublin when I left Dunmaine. I think he had been there for two months. We went to Wexford in the spring of the year when the Pretender's men were tried.

To ELEANOR MURPHY—Do you remember any great eclipse at that time?—Indeed I heard there was such a thing. I saw a darkness, but I cannot tell when it was. I was in Ross at that time. It would be a good while before I entered Lady Altham's service. I was living then at Mrs. Butler's. I was with Lady Altham before she was brought to bed.

D. Redmonds

DENNIS REDMOND, recalled—Who was butler when you lived at Lord Altham's?—There was—I cannot exactly say who was there when I went first.

Who was there when you first went there?—One Meagher, and there was another man, a married man who came from Dublin.

Do you know that man (pointing to Rolph)—I do.

To THOMAS ROLPH—Do you know him (pointing to Redmonds)?—I think I do. I believe he was a servant in my time.

To DENNIS REDMONDS—Was Rolph in the service while you were there?—He was in the service, and I saw him about the cellar and several places. I cannot exactly remember the time of or the occasion for Rolph's leaving the service. Meagher

was butler at the time my lady was brought to bed, and upon my oath it was he that gave the servants drink upon that occasion. I know Eleanor Murphy. I remember her as a servant at Dunmaine, but I cannot tell at what time. D. Redmonds

To JOAN LAFFAN—Who was butler at the time of the birth of the child?—Charles Meagher.

To MARY DOYLE—Who was butler?—Charles Meagher.

To ELEANOR MURPHY—Who do you say was butler?—Charles Meagher.

To THOMAS ROLPH—Do you remember such a servant as Charles Meagher?—I do not.

To MARY DOYLE—How long had you been in the service before Murphy came into it?—I was three months altogether. I remember Eleanor Murphy being in the service, but I cannot remember whether she came before or after me.

Do you remember the rejoicings and the bonfire at the birth of the child?

To ELEANOR MURPHY—Do you?—I do.

To DENNIS REDMONDS—Do you?—I do.

To JOAN LAFFAN—Do you?—No, I do not.

To THOMAS ROLPH—Do you remember any such thing?—No.

To DENNIS REDMONDS—Do you remember the great eclipse?—Upon my word, I cannot tell. I remember there was a darkness one morning, but I took no notice of it. I do not know where I was living at the time. Upon my oath, I have a perfect remembrance of the rejoicings on the birth of the child. Rolph went away before those rejoicings. I cannot say whether my lord and lady were at home then or not. I remember the gardener, Arthur, very well; he was a strong, lusty man. I do not know what was the occasion of Rolph's going away. When I brought the midwife she alighted in the yard. I immediately went into the stable with the horse, and she went into the house. She rode behind me, and we conversed along the road. She spoke English.

JOHN TURNER, recalled—I made my first visit to Lady Altham about three weeks or a month after my marriage, on 29th December, 1714. I was back and forwards, and my wife stayed at Lady Altham's every night for six or seven weeks. John Turner

Do you know that man (pointing to Rolph)?—I do not. I cannot say whether I ever saw his face before.

To THOMAS ROLPH—Do you know this man (pointing to Turner)?—No, I do not.

To JOHN TURNER—Who acted as butler during the time you

John Turner visited at Dunmaine?—He was a shorter man than this. I do not remember who was butler.

Can you take upon you to say it was not that man?—Indeed, I cannot say. I was at Dunmaine House again in July or August, but I cannot remember who was the butler then. At the time my wife visited I took Lady Altham to be with child. When I saw my lady again in August, 1715, she was light and not with child.

To Thomas Rolph—How long before you left Lord and Lady Altham did they leave Dunmaine in the year 1715?—Two or three months, I believe.

Was Lord or Lady Altham there in the month of July or August, 1715?—I cannot tell. They were in Dublin, but I cannot recollect the time they went.

They would leave Dunmaine either in July or the latter end of June?—I am quite positive about that. They did not return to Dunmaine while I lived there, and I continued to live there from that time till after harvest, 1715. My lord went to Dublin about three weeks or a month after the assizes, but I cannot be positive as to whether my lady went with him or after him. From that time till I left for England I never saw my Lord Altham. I am quite certain of the year I left the service because it was the year of the Rebellion, and I went directly and bought into the troop of Horse Guards.

What became of you after?—I did my duty. The first duty I ever was on was in the camp at Hyde Park.

To John Tuite—I do not believe my wife was with me all the time I was at Dunmaine. I overtook Lord Altham going to the assizes. He was in a wheeled carriage, but I could not say whether it was a coach or a chariot. I do not know where he lodged in town. I spoke to him several times at the Bull-ring. I believe Walsh was indicted at that time. My lord had two servants with him. He had neither women nor girls with him; there were no women on horseback. I was at his house, and I saw him going into the coach, but I did not see any woman in the coach leaving the house with him. My lady was at home; I know that because I saw her that very day. It must have been that assizes, because it was the assizes after I was married, and I am positive that Walsh was indicted then. I am sure I saw my lady in the house that day after my lord was gone. I remember a great eclipse in April or May a year after I was married. I think it was after I was at the Wexford Assizes. At the time of the eclipse I was near Mr. Colclough's on my way to Wexford. I cannot remember whether that was the first time I was at Wexford after the assizes.

Can you be positive whether it was one year or three years

after?—Indeed, I cannot, but I think it was not one year. I was not in the Court-house at that assizes, and I cannot name any one that was tried there, but I think Mr. Walsh was indicted. John Turner

Mrs. Heath, recalled—You said that Rolph was butler at Dunmaine?—Yes, when I first went down. I do not recollect how long he continued there, but I remember he went away when we were in Dublin, and in his place my lord hired one Charles Meagher and sent him down to Dunmaine. He was sent while we were at Mrs. Vice's. Mary Heath

Was there any account that Rolph had quitted the family before Meagher was hired?—I cannot tell; but there was a quarrel between Rolph and the gardener, and he was ordered to quit.

What time of the year did you go back with my lady to Dunmaine?—It was above a year we stayed in the town.

Did Meagher act as butler during that time?—He did. I came over with my lady from England, and we went to lodge at the house of Captain Briscoe. We went straight from there to Dunmaine, and got there about Christmas Eve. We did not go to any other house to lodge.

Mrs. Henrietta Cole, recalled—Do you remember the time of Lady Altham's coming to your house when the reconciliation happened?—I do. To the best of my knowledge, Lord and Lady Altham did not stay in our house above four or five days, and then they went and took lodgings at Mrs. Vice's house. H. Cole

To Mrs. Heath—Do you know this gentlewoman (pointing to Mrs. Cole)?—I do remember her.

To Mrs. Cole—Did you ever visit after they had left your house while they remained in town?—I cannot tell, but I believe we might.

Can you be positive that they lodged in any other house in Dublin but your father's before they left Dublin?—I am positive.

What reason have you to think that they went to Mrs. Vice's house before they went to Dunmaine?—After my lord and lady came together, my father was still uneasy until my lord took her to a lodging of his own. He thought if they went to lodge at some other place it might have a better air of reconciliation.

Did you understand your father to mean by that that it would become more public and notorious to mankind that Lord and Lady Altham were really reconciled?—Yes, I understood that to be his meaning. Lady Altham was at our house about a month or six weeks before my lord came, and

E. Cole she did not stay for more than five days after the reconciliation at our house. I went down to Dunmaine in the winter time. I remember an accident happening which frightened and fretted my lady, upon which she became indisposed, and I remember a servant being sent up by my lord desiring my lady to come to supper. My mother was with her two or three times to call her, but she excused herself.

Do you remember anything that happened upon that?—My lady miscarried.

Who gave that notice first to your mother?—Mrs. Heath. My mother was called up in the night by Mrs. Heath, who came to my mother's room and said, "For God's sake, madam, get up as soon as you can, for my lady is exceedingly ill."

To Mrs. Heath—Do you remember that fact?—No, there was no such thing happened, for my lady never miscarried.

Do you remember that you called up Mrs. Briscoe in the night?—No, I never did. I do not know what I should call her for.

Did you ever tell Mrs. Briscoe that your lady had miscarried?—No, for if I had I should have told a false thing. I never stayed a night in any house in Dublin but Captain Briscoe's till we went to Dunmaine.

To Mrs. Cole—Were you after that time in my lady's bedchamber?—Yes, I was there next morning.

To Mrs. Heath—Was she in my lady's bedchamber the next morning?—I do not know but what she might be, for my lady always breakfasted in her bedchamber.

To Mrs. Cole—Who was it that showed you that which you took to be the abortion?—My mother. I cannot tell whether Mrs. Heath was there or not. When my lady came to Ireland I was thirteen, fourteen, or fifteen years old—I cannot remember. I believe I am either forty-five or forty-six years old now. I cannot tell how long my lord and lady stayed in Dublin after they left my father's house before they went to Dunmaine. I cannot tell how often I would see them during that time.

To Mrs. Heath—Did my lady keep her bed or not the day after the accident to the saucers?—No, it never disturbed her, for she was glad they were gone. She did not keep her room the next day.

To Mrs. Cole—Did my lady keep her room the day after?—She did, and for some days after. Rolph was butler when I was at Dunmaine.

Proof Closed.

Thursday, 24th November, 1743.

[The speeches of the counsel and judges are here taken from *State Trials*. As the reader has been told in the Introduction, the contemporary published reports in the folio and in *The Trial at Bar* give versions of the speeches which vary much from those in *State Trials*, and these two versions also vary from each other. The variations are most remarkable in the observations of counsel on the evidence of Major Fitzgerald, which is scarcely touched on by the speeches in *State Trials*. His evidence is the crucial point; he certainly did not invent his story; he certainly recognised, in Court, the pretty nurse to whom, thirty years before, he gave half a guinea when she brought to him a new born child, exhibited by Lord Altham as the son of himself and his wife. But as the Major stood by his recollection of the date of these events, *September*, 1715, whereas the claimant's birth was, by his own case, in *April*, 1715, the highly important evidence was disregarded. There are other curious differences between the contemporary reports of speeches and those published in *State Trials*.]

The Court met according to adjournment, and the jury being called over answered to their names respectively.

Mr. Prime Serjeant Malone, counsel for the defendant— The matter in question, my lords, has taken up so much of your lordships' time and of the gentlemen of the jury that I shall be as concise as I can, and hope to satisfy the jury that a verdict ought to be found in favour of the defendant, my client. But if I should happen to touch upon anything which I formerly mentioned (as this affair has been attended with such multiplicity of evidences) I would request your lordships' indulgence. Serjeant Malone

The single question before the Court and the jury is, whether the lessor of the plaintiff, Mr. James Annesley, is or is not the legitimate son of the late Arthur Lord Altham? The plaintiff's counsel have very ingeniously dressed out their case; but when the ornaments are taken away it will, I hope, appear that the plaintiff is the natural, and not the legitimate, son of Arthur, late Lord Altham.

Before I proceed to the evidence it will be proper to examine the condition and circumstances of the family before the time alleged for the birth of the lessor of the plaintiff. Arthur, first Earl of Anglesea, had issue five sons—James, his eldest son; Altham, his second son; Richard, third son, created Lord

Sergeant [illegible] Altham; Charles, his fourth son; and Arthur, his fifth son. On the marriage of James, in 1699, a settlement was made by Arthur, the first earl, and several provisions and limitations therein. Richard, Lord Altham, died in 1701, leaving Arthur, late Lord Altham, and the present defendant. James, son of Earl Arthur, levied fines and suffered a recovery of his estate, and on the 14th of May, 1701, made his will, wherein was a remainder to Arthur, late Lord Altham, for life, remainder to his first and every other son in the tail male, with several remainders over.

Subsequent to this, upon the death of Richard, Lord Altham, on the 9th of December, 1701, he made another will, limiting a remainder to Arthur, late Lord Altham, for life, remainder to his first and every other son, with several remainders over; but no manner of notice was taken of the defendant, who is the second son of Lord Richard, and Earl James the same day affixed a codicil thereto. On the 10th of December, 1701, he affixed two codicils more to his will, and subsequent to all these, on the 2nd of January, 1701, he affixed two other codicils to his will, so that there were two wills and six codicils with respect to this matter.

The lessor of the plaintiff presumes to pretend a right to the estate of the late Lord Altham under the said wills and codicils.

Earl James had issue, James, John, and Arthur, who were successively Earls of Anglesea, and who all died without issue male; and had the late Lord Altham, who was next in succession in point of blood, left a son, that son would have succeeded to the Altham and Anglesea estates. But I believe it has appeared to the satisfaction of your lordships and the gentlemen of the jury, by the evidence of the defendant, that he left no issue. If the late Lord Altham had had a son by his lady it would have been a matter of such consequence, that son being heir-apparent to the Anglesea estate and title, that his birth would be publicly known, and the birth of such a son would be attended with such notoriety that it could not be concealed. The near relations of the family would be made acquainted therewith; his friends, neighbours, and acquaintances who used to visit his lordship must know something of it. Yet it is not pretended that any of these were apprised of the late Lord Altham's ever having a son by his lady. If there was such a son such a transaction would be public; it could not remain in doubt, and it is impossible it should be a secret to all the world, except two or three of the meanest servants, which carries a presumption very near a demonstration that Lord Altham never had a son by his lady.

I would observe another circumstance which must be prodigiously surprising if there had been such a son—it was not even intimated that any of the newspapers published at that

time ever mentioned the birth of any such son. I believe it is unnecessary to inform your lordships how industrious the news-writers are to fill their papers with paragraphs on such occasions, and especially when a nobleman is blessed with an heir to so immense an estate. Is it not constantly inserted in the daily and weekly papers, both in this kingdom and England, the lady of such a one was safely delivered of a son, to the great joy of that noble family? And these latter words are particularly added when any noble family has continued some considerable time without issue. As that was pretty much the case with respect to the late Lord Altham, it is manifest his lordship never had any legitimate issue. I say, my lords, if Lord Altham had been so happy as to have a son and heir, surely his family, who were interested in the succession, cannot be supposed to be strangers thereto; it would be the common rumour and discourse of the whole neighbourhood, and the public in general would have proclaimed it. Serjeant Malone

Some stress has been laid by the plaintiff's counsel on the fondness showed by Lord Altham to the lessor of the plaintiff when a child. We see very frequently how fond men are of an illegitimate son, especially when they have no legitimate issue; and I believe some instances might be shown that men have sometimes preferred their natural issue to their lawful children. So that I say the fondness of the late Lord Altham can have no weight to support the pretensions of the lessor of the plaintiff, for if a man should have a bastard by a servant-maid, is it not natural for him to take care of his offspring?

The lessor of the plaintiff has endeavoured to fish up circumstances, yet he has failed in proving his birth; and the foundation being sapped, the superstructure will consequently fall. He began with endeavouring to prove Lady Altham a woman likely to have children, and that she had two miscarriages and a real birth in one year. I believe, my lords, the gentlemen of the jury, from their own attention to the occurrences in life, will observe how improbable, nay, even impossible, it is for a woman to miscarry twice at times so very distant, and in the space of that very year to be brought to bed of a son. This shows how the lessor of the plaintiff has overshot himself, and has quite overturned the credibility of his pretensions.

It is agreed that the late Lord Altham and his lady were married in 1706; that they afterwards parted in 1709, and that about 1713 they were reconciled, and Lady Altham came into Ireland. The falling-out on account of Mr. Palliser and the separation thereupon were public, known in the neighbourhood. The circumstances of their reconciliation after the separation of four years would call in general on the attention of the family and the curiosity of the people, so that if a child

Serjeant Malone

was born to inherit that estate it must have necessarily engaged the attention of the family; it would have engaged the attention of the whole kingdom; and if this has not appeared with the utmost clearness, it carries with it the strongest presumption against the plaintiff. My lords, a fact of such importance that appears in the least doubtful must be false, because, if true, it would have been evident and notorious beyond the reach of a doubt.

Two ladies are produced as evidence for the plaintiff—Mrs. Cole and Miss Briscoe—whereon a good deal of stress is laid with respect to the period of time that Lady Altham went to Dunmaine after the reconciliation. Mrs. Cole said that Lady Altham came to Ireland in 1713, and stayed at her father's house for some time; from thence went to lodge at Vice's, and from Vice's went to Dunmaine. This, I say, is made use of to lessen the evidence of Mrs. Heath, who said that Lady Altham went directly to Dunmaine from Captain Briscoe's house, and therein disagreed with the evidence of Mrs. Cole. It must be presumed that if Lady Altham went to Vice's before she went to the country, Miss Briscoe would have visited her, which neither she nor Mrs. Cole remembers. Want of memory in that particular lessens their credit in others. And, indeed, I think it very improbable that Lady Altham would have changed her lodgings from Briscoe's house to Vice's for such a short space of time, and for so idle a reason as is suggested. This circumstance should, in a great measure, take away the force of Mrs. Cole's and Miss Briscoe's evidence.

It may be reasonably supposed that after the pretended reconciliation some of Lord Altham's relations would pay her ladyship some of the ordinary honours due on such an occasion, some of the family would have been entertained, some of them would have been invited, some of them would have visited her, or would have taken leave of her when she went to the country. And as Miss Briscoe or Mrs. Cole have never mentioned any of these circumstances, their testimony is not much to be relied on. What Mrs. Cole said in favour of the plaintiff and the evidence of Mrs. Heath in behalf of the defendant deserve to be very well considered by the gentlemen of the jury. I believe the gentlemen of the jury will remember that Mrs. Cole first swore she was twelve or thirteen years old at the time of the pretended miscarriage, and afterwards said she was fifteen years old. A girl of twelve cannot be supposed to take notice of such minute circumstances in relation to the miscarriage, for such things could not make an impression at that age. It was indeed prudent of Mrs. Cole to have afterwards added two years, to the best of her remembrance. As Mrs. Heath was constantly with Lady Altham, she could not forget such remarkable circumstances

as Mrs. Cole mentioned. Mrs. Heath was then in the bloom of life, about the age of twenty-five years, when all the human faculties are in full vigour, and surely it is natural to believe that a person can better remember transactions at that age, when the judgment is ripe and the memory more susceptible of retention, than at the age of twelve or thirteen years, as Mrs. Cole says she then was. I appeal to the common sense of mankind whether the evidence of Mrs. Cole or Mrs. Heath should prevail. Mrs. Cole, I think, said that Lady Altham lodged at her father's house six weeks; Mrs. Heath mentioned only three weeks. One was a child, and the other a woman grown. It was impossible that Mrs. Heath could be mistaken, but Mrs. Cole was liable to be mistaken. Therefore, in my humble apprehension—and I hope your lordships and the jury will be of the same opinion—the evidence of Mrs. Cole can have no great weight. Serjeant Halone

The first miscarriage, my lords, according to Mrs. Cole's account, was in April, May, or June, 1714; she is not certain in which of these months it happened. It seems a dream to her, and not a reality; yet she pretends to have heard it from Mrs. Heath, but herein I apprehend she cannot receive credit. The circumstances which Mrs. Cole mentioned of awaking her mother at night by Mrs. Heath should be considered, and that Mrs. Cole was not the person who was awaked or called up. And as to what she says, that her mother showed her the abortion next morning, it cannot be supposed that a girl of twelve years old could know what an abortion was or what the word meant, which must be presumed to have been lately put into her mouth, by comparing what she has lately heard with other incidents, in order to be made a story. Therefore I say it carries with it the strongest presumption that this must arise from some late discourses, adding thereto a faint remembrance, and mentioning some circumstances that happened twenty-nine years ago, whereby she has persuaded herself that these things are true, which are the mere effects of her own brain, and thus Mrs. Cole is made to say what she has offered in evidence.

My lords, Mrs. Cole in this respect is but a single witness, and is contradicted by Mrs. Heath and Rolph, to whom she appeals, and who, she owns, were servants in the house. Surely, if Lady Altham had miscarried, it must certainly be supposed that Mrs. Heath, her ladyship's woman, would be privy thereto; and as she never knew anything of that matter, and there is not a single instance offered to prove it but the memory of a young girl, which is but little to be relied on, it is plain that no such pretended miscarriage ever happened.

Catharine MacCormick, a woman in low circumstances, is produced to prove a second miscarriage. A child proves the

Serjeant Malone

first, and a servantmaid who lived at Vice's is now pretended to prove a second miscarriage. MacCormick swears that Lady Altham came to town to Vice's about the latter end of May, or beginning of June, 1714, and about six weeks after miscarried, which must be near or about the month of August. Cole's and MacCormick's accounts are inconsistent, and as both are impossible to be believed, it brings a disrepute on one or other of the witnesses; so that as one cannot tell which to believe, there can be no dependence on the testimony of either. Both Mrs. Briscoe and Mrs. Cole swear that they saw Lady Altham in Dublin in August, 1714, and that they never heard of a second miscarriage; and as they say they frequently visited Lady Altham, she could not miscarry without their knowledge. MacCormick said one Lawlor, a midwife, attended Lady Altham, and that she prevented the sending for Mrs. Lucas, who was the midwife called for; and that it was Mrs. Heath informed her of the second miscarriage. It seems very odd and absurd that Mrs. Lucas should be mentioned to be sent for, and not one word of Lawlor, yet that Lawlor should be the person brought to attend on that occasion.

Mrs. Alice Bates is a stranger to the second miscarriage at Vice's. She says that in two months after Lady Altham's coming to Vice's she was visibly with child, and that she clapped her hand on her ladyship's big belly. This is very improbable, or that Lord Altham should say to her, "By God, Ally, Moll's with child," and though she would endeavour to prove her ladyship's pregnancy by the manner she pretends Lord Altham spoke so familiarly to her, yet in my humble apprehension it destroys her credit. If Lord Altham gloried in her ladyship's big belly it is astonishing that it should not be known to all his acquaintances and relations; for if he spoke with so much freedom to Mrs. Bates it must be supposed he would have published it to all the world. Bates said she published it in the family of the Briscoes, and they say they knew nothing of it. Bates said Lady Altham was big with child in November at Vice's. MacCormick swore when she observed Lady Altham with child it was about Christmas; and as these evidences vary in such a manner it should take away the force of their evidence.*

I am now, my lords and gentlemen, come to the period of time wherein the supposed birth of the lessor of the plaintiff is said to have happened, which was either the latter end of April or beginning of May, 1715. To prove this Dennis Redmonds is the first person produced, who, by his own confession, was a stableboy, and that is the best description of him. His evidence is falsified by himself. He tells you

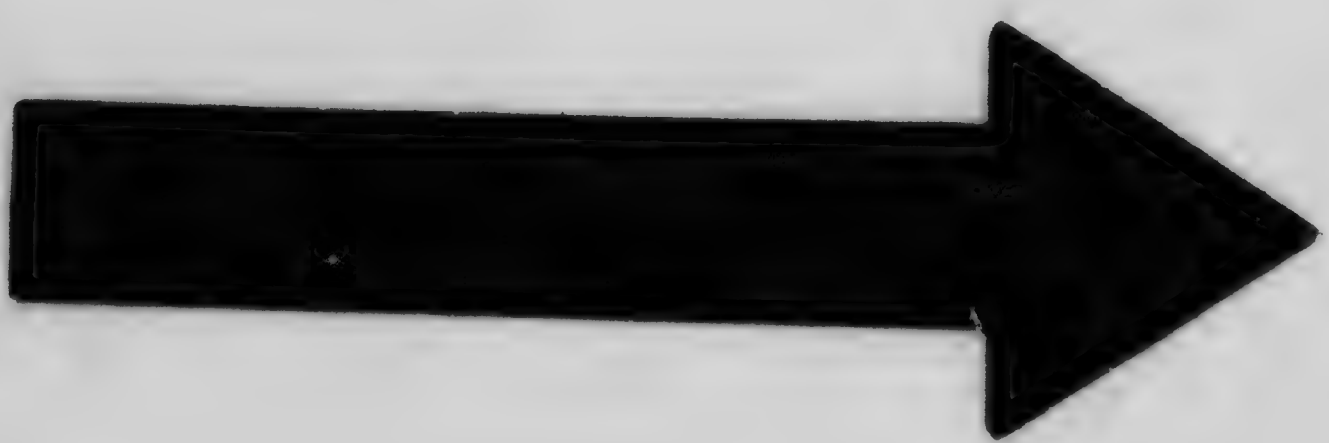
* How do they vary?—Ed.

that he came to Lord Altham's service about thirty-three years ago, which was before the reconciliation of his lordship to his lady, and that he continued in the service for three years. If he is right in this, he must have left the service before the time of the pretended birth. My lords, it appears that Lord Altham went to live at Dunmaine in 1711, yet Redmonds must be in the service, as he says, in 1710. This point seems to be carried by the gentlemen a little too far; they have settled their witness in the service five years antecedent to the birth, and as he lived but about three years in Lord Altham's service he could not have known the transactions of the supposed birth. How little stress is to be laid on this witness is very plain. Indeed, his very appearance created a strong prejudice to his disadvantage, and that prejudice is well justified by the inconsistency of his evidence. He said that he knew Rolph was in the family in his time, and he remembered no other circumstance in relation to him but that he was about the cellar. And he did not remember any servant but that Charles Meagher was butler at the time of the birth; and yet it appears that Meagher came not into the service until after the time of the pretended birth. It is pretty remarkable that all the other defendant's witnesses know nothing of Rolph's being in the family; but they fix on Charles Meagher as a prelude to the play.

Sergeant Malone

Mary Doyle is the next evidence in support of this pretended birth. She was a chambermaid in the family, and about twenty-eight or twenty-nine years ago she came into the service, and made a very short stay therein. She was never in the family before, and never came into Lady Altham's chamber before the time of the birth; yet she is so lucky to come there at that critical juncture. She could not remember of any person being there, except Madam Butler of Ross, Eleanor Murphy, the midwife, and herself. But Mrs. Heath was there some time afterwards, yet Eleanor Murphy could not remember of any person being in the room when Lady Altham was brought to bed except Mrs. Heath. When an affair, my lords, is ushered in after this manner, and the evidence an absolute stranger to other circumstances (which are to be known by the rest of the witnesses), this, I apprehend, must greatly tend to have overturned the credit of their testimony.

Can it be supposed that a child born to all those honours should only be known to a chambermaid and an under-laundrymaid (Eleanor Murphy)? If they were in the service (which I must own I cannot prevail on myself to believe) it must be after the time fixed for the supposed birth, and by the meanness of their stations it can scarce be presumed they would have been employed about the birth. It is demonstrable from their own showing that one or the other of them is



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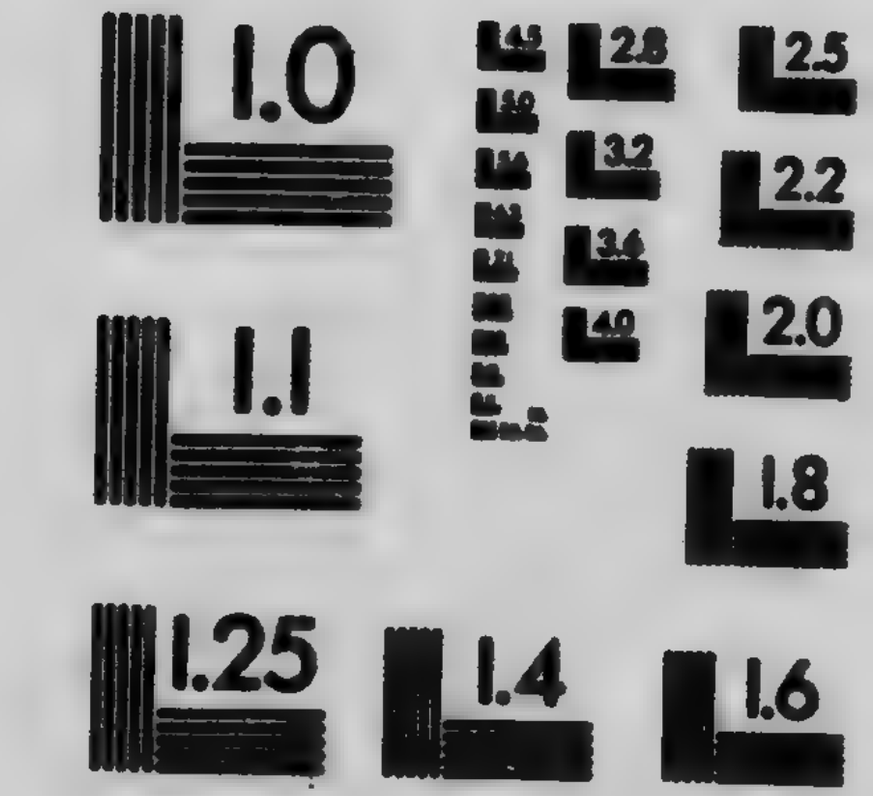

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Serjeant Malone

perjured; for Mary Doyle said she was in the service before Eleanor Murphy, and Murphy said that Doyle was in the service before her. It seems they both forgot their lessons. Mary Doyle being interrogated last day said, first, that Eleanor Murphy was in Lord Altham's service before her, and afterwards said she could not tell if Eleanor Murphy was in the service before her time. These are contradictions not to be reconciled, and should induce a disbelief of both their evidence.

I must now observe to your lordships how Eleanor Murphy contradicts herself in point of time as to the eclipse which happened the 22nd of April, in the year 1715. It was a very memorable thing. She said that she was at that time at Captain Butler's at Ross. If she swore true she must have been in Dunmaine at that time, it being about that period of time that the lessor of the plaintiff has fixed his birth. Another contradiction arises from her testimony. She said she was in Dunmaihe three months before the birth (which was in April or May, as pretended), yet from her own admission she was in Ross the 22nd of April, and came (as she says) to Lord Altham's service the day following. This is as equally inconsistent as the rest. To consider her testimony in another respect, if she came to the service the day after the eclipse, and was in the service three months before the birth, the child must be born in the month of July. From circumstances only persons sometimes can be proved perjured; but it is plain they were at a loss, and could not make all parts of the machine to hang together. As a proof hereof, let us consider how Mary Doyle swears that Major Fitzgerald came to Dunmaine the day after the birth, and lay there that night. He swore he came to Dunmaine in the month of September, the day after the child was born, but did not continue there, for he went to Ross that night. Mr. Fitzgerald gave very particular reasons for his being at Dunmaine that month—that the harvest was over, and that people at that time generally pay their half-year's rent; and he gave an account how he was invited by Lord Altham, and that the child was shown to him, and he gave the nurse half a guinea.* Surely, my lords, it is incredible that Lady Altham could have a child in May and another in September following.

I humbly conceive that Major Fitzgerald, from his education and character, must be presumed to be believed before Doyle or Murphy; or if their evidence be regarded, consequently what Mr. Fitzgerald swore cannot be true. For my part, I would not give up the Major to them in point of credit. He tells you how he was attacked and how he defended himself. He appears to be a gentleman of figure and reputation, and

* At the Trial he recognised Mary Doyle as the nurse.—Ed.

therefore his testimony ought to be relied on preferably to theirs. But as it is impossible that both stories should be true, it must bring an imputation on the cause; and, my lords, it is humbly presumed that by the several contradictions arising from the evidence on behalf of the lessor of the plaintiff, in order to entitle him to a verdict, it is essentially requisite on him to ascertain a more positive, distinct, and creditable account of his birth. Serjeant Malone

I must take notice to your lordships to what difficulties the plaintiff was drove in point of evidence. There has not been a single person of credit near Ross, or a freeholder of £10 a year about that place produced to prove his birth, though Dunmaine lies within three miles of Ross (a town of great trade and business), and though Lord Altham had a considerable estate there. And this is attended with another circumstance, that the plaintiff's birth was not registered in the parish where he is pretended to be born. Though it is said that there were public rejoicings in Dunmaine for his birth, yet we find no gentleman in that part of the country knew anything of it, nor is there any person above the degree of a servant produced to give any account of his birth. Why has not the plaintiff produced better evidence? Everything is to be proved by the best testimony it will admit of. The fact might well admit better evidence, but the cause will not afford it.

I shall next make some observations, my lords, on the appointing Joan Landy to be nurse for this pretended child. It is said the child remainded with her fourteen or fifteen months. Her name was given in to the defendant's counsel to be examined as one of the witnesses for the plaintiff. Why is not she produced? The gentlemen of the other side promised from day to day that we should see her examined; and we expected that accordingly she was to have wound up the bottom. She could not shelter herself by saying she was only three months in the service. Either the consciousness that she could not swear that Lady Altham had a child, or that her infirmity would not admit her to have art enough to disguise, prevented the plaintiff from examining her. The plaintiff's counsel, being pressed by the defendant's counsel to produce her, have made an ingenious apology for her—that she is an infirm old woman, but this cannot be the reason. However weak she is, she must still speak truth. She was longer conversant in the affairs of the family than either Doyle or Murphy. It induces a strong presumption of the badness of the cause. There must be some contrivance in giving her name among the list of evidences, and afterwards in omitting to examine her. I say, therefore, my lords, it is plain that the plaintiff apprehended truth would force its way if Landy had been examined; she must know whether she had a bastard

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by Lord Altham, or whether she nursed any child for him. As I am informed that she is in town, and perhaps in Court, it must have been the strongest impression on the mind of every man that the whole affair on the part of the plaintiff is a mere fiction, since he avoids the examination of a person who must be best apprised of the whole transaction.*

Here I should take notice to your lordships and the gentlemen of the jury that Mary Doyle swore that Joan Landy was married to one MacCormack before the birth of the lessor of the plaintiff; and that they lived in the lands of Dunmaine; though all the other witnesses say they were not married till after the separation of my lord and lady at Dunmaine, which was a long time after the lessor of the plaintiff is supposed to be born. This likewise shows the improbability of the plaintiff's story. Joan Landy must be with child, it is true, to qualify her to be a nurse; and it appears she was unmarried at the time of nursing the child, and her child must be a year older than Lady Altham's pretended child.

If Lady Altham had a child, my lords, it is extremely surprising that so little care should be taken of it as to give it into the care of Joan Landy to be nursed, who was scarce chaste enough (if I am rightly instructed) to confine herself to one person; nobody can tell what disorders she might contract. For these reasons, from the apprehension of such dangers, it is very improbable Lady Altham would have entrusted her child to such a nurse. There are other reasons which must weigh greatly with your lordships and the gentlemen of the jury. It is proved that Lady Altham suspected Joan Landy to be with child by my lord, and therefore turned her out of the house on that account. Is it possible to think that this person to which Lady Altham had so great a disgust and aversion should be the very person she should think proper to fix on for the nursing her son and heir? And can it enter into the mind of man that Lord Altham, who never before had a child by his lady, and could not well expect to have any more, should consent that this only child of the family, born to such high honour and immense estate, should be sent to such a creature as Landy was, and be nursed in a mean cotter's cabin? It is unusual with gentlemen of the country to send their only child to be nursed abroad, especially when there are conveniences for that purpose at home.

As to Landy's cottage, it appeared to be a cabin of the meanest kind. It is natural to suppose that if Lord Altham had a legitimate son he would not be admitted to be nursed abroad, proper persons would have been appointed to attend the child at home; and the tenderness of Lady Altham for her

* The defence did not call Joan Landy.—Ed.

child would so strongly overflow in her that she could not bear having him out of her sight, and Lord Altham's interest, as well as his fondness, would influence him to have the child always under his eye. But to gloss over this fiction, and give it the appearance of a reality, this cabin is to be dressed up; and Murphy adds a third room to the cottage, and this room is decked and ornamented for the nursing of the child; but the other witnesses contradict Murphy, and affirm that there was not a third room added. Murphy said that about three weeks after the birth of the child it was sent to be nursed in this new-made room, a habitation extremely improper for a tender infant, born to such honour and such an estate, and whose preservation must at that time have been his parent's greatest care. The fiction is too improbable to meet any credit. Serjeant Malone

My lords, one Bartholomew Furlong mentions that three weeks before the child was born he applied in order to get the nursing of the child for his wife. By the plaintiff's evidence, about six weeks after this application, the child was sent to Landy's. Though this man was well recommended, and had the character of an honest man, yet his wife was refused, and a kitchen wench, under an ill-repute (as appeared in evidence) with the meanest of the servants, was preferred to Furlong's wife. But this is varnished over by a sudden indisposition to occasion her milk not to be wholesome; and Dr. Brown, who was said to have examined her milk, happens now not to be living.

If a person had many children and was stinted for room in his house, and the nursing a child at home was attended with inconveniences, this might be assigned as a reason for sending the child abroad. But that could not be the Lord Altham's case. He had a large country house and a number of servants. It is very improbable that he should send his only son and heir out of his own house.

The plaintiff, to make his pretensions the more plausible, has produced Philip Breen and some other witnesses who said there were great rejoicings and bonfires made for the birth of the child, and that there was a great christening and liquor given in abundance to the servants on that occasion. If there were any such rejoicings they would have been public, and other servants must have seen them. But this it seems was intended to be concealed from all the other servants and the rest of mankind, except the witnesses who now endeavour to prove it. The grove, near Lord Altham's house, was an odd place for a bonfire for public rejoicings. If the fire was made without the grove the neighbours must have seen it. The whole matter is blended with such inconsistencies that it must appear an odd, jumbled story.

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I must now beg leave to make some observations to show your lordships and the gentlemen of the jury that the proof in point of credibility is on the side of the defendant, the Earl of Anglesea, and that if Lord Altham had a child at the time pretended by the evidence to be born, Joan Landy and not Lady Altham must be the mother.

As this extraordinary case, my lords, rolls on the birth of the lessor of the plaintiff, I shall consider some of the defendant's proofs, and shall first take notice of Mrs. Heath, who was Lady Altham's woman, and lived with her till her death. She swears positively that her ladyship never had a child while she was in her service, and she never heard till lately that Lady Altham ever had a child. She came to Ireland in 1713, and went from Dublin with her ladyship to Dunmaine the Christmas Eve after her coming over and lived with her till her death, and never was absent one week from her; so that it was impossible for Lady Altham to have a child without her knowledge. Yet she says she never observed any signs of her ladyship's pregnancy, and nobody can be supposed to know the circumstances of the family better than she. Rolph swore that Lady Altham never had a child, and never miscarried. Dyer, my lord's gentleman, swears the same, and they must have known it if any such had been, for they were the principal persons who were servants in the family. So that I say Mrs. Heath's testimony is strongly confirmed by their evidence.

My lords, I would submit to your lordships and to the memory of the gentlemen of the jury that the gentlemen of that part of the country swear they believe that Lady Altham never had a child, that they never heard till lately that her ladyship had a child, and that if she had had a child they must have heard of it; and the reason of the thing plainly speaks that the fact, if true, must have been publicly known in the neighbourhood. Mr. Palliser, the younger, who lived in the family for a long time, and is mentioned as the unhappy cause of the separation, swears he never heard that Lady Altham had a child. Mr. William Napper swears he lived at Ross for fifty years and was married to a near relation of Lord Altham's, and was entrusted with the affairs of the family, and was employed by the late Lord Anglesea to make leases of the Ross estate (the late Lord Anglesea coming into possession thereof after the death of the late Lord Altham), so that he must well know if Lord Altham had a son the Lord Anglesea could not have a right. Yet no person made any objection to the late Lord Anglesea's title, nor did the tenants make a difficulty to attorn to him. And if Lord Altham left a son it is impossible it would not have been known in the town of Ross.

If Lady Altham had a son it would naturally be a great comfort to her in her affliction after the separation. The prospect of having a son who was to succeed to so considerable an estate must alleviate her anxiety. In every company she would have made frequent mention of him. Yet she never spoke one syllable of him to any person whatever. Serjeant Malone

As to James Walsh, it is impossible that his testimony could be true. He states that on the day of the separation Lady Altham chose to come to town in the middle of the day, to be the object of public view, though innocent, and came to Captain Butler's before dinner. Herein Walsh differs from the plaintiff's other witnesses as to the time of the day. Walsh swears, further, that her ladyship came to Ross in a chair drawn by one horse, and that he handed her out of it. Some of the other witnesses say she came in a four-wheel chair, others a four-wheel carriage. In this respect Walsh also varies from the rest of the evidences. Mrs. Heath says that Lady Altham positively directed the coachman to go easy that it might be late when she came to Ross. This tallies with what the other witnesses swear in that respect, that it was duskish and late in the evening when Lady Altham came to Ross (the day she left Dunmaine), consequently she must come there after dinner time. So that if there be any reliance on the testimony of the plaintiff's other witnesses Walsh in this particular must be looked upon as a made witness, and not to be credited. It is very observable how convincing the proofs are on the side of the defendant, whereas those for the plaintiff are incompatible and sap the foundation whereon they build.

For dressing up the story at Dunmaine Joan Laffan is produced. Joan Landy was judged by the plaintiff to be an improper witness; therefore Mrs. Laffan, the dry nurse (because she is supposed to have more cunning), is brought to supply the want of the evidence of Landy, the wet nurse. Laffan at first said she came into the service in 1716, but afterwards recollected herself that it was in harvest, 1715. Though this was a small mistake it was found material to correct it; yet still her testimony cannot be reconciled but by her coming into the service in 1716, which makes truth break out to show the improbability of her evidence. If Laffan came into the service in 1716 it would overreach the time given in evidence by Doyle and Murphy, therefore she must say the child was three months old at her coming into the family in 1715. It is clear that this piece of her evidence was introduced in this period to give a sanction to the other witnesses, Doyle and Murphy.

I would beg leave to ask how could the plaintiff's witnesses know how a nobleman's child was to be dressed? It is plain

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this point was settled before they came on the table to be examined, but the manner in which they delivered in their evidences and their very looks betrayed a conscious guilt.

Laffan says she was a chambermaid in the service at Ross, and that the child was about a year and a half in the whole under her care before the separation, and that Charles Meagher, the butler, brought the child to Kinnea. Rolph says he did not leave the service till about Christmas, 1715. It is easily discerned how consistently Rolph gave his evidence; his quarrel with the gardener, his going into the guards, and the time of his encampment must make such impressions on his mind that he must have remembered it. But Doyle and Murphy falsify each other, and Laffan contradicts them, as I shall show immediately. So that I humbly conceive their evidence ought to be rejected.

If the child was in Laffan's care for a year and a half, and that she came into the service in August, 1715, then all her care of the child must cease at least before July or August, 1717. Now, my lords, it is not pretended that Lord Altham went to Kinnea till the year 1718. If what Laffan says be true, that the child was taken from her and sent to Lord Altham's to Kinnea, then there is a chasm of a year, from 1717 to 1718, not accounted for, which cannot be filled up but by supposing that Laffan came into the service in the year 1716. So that I say the circumstance of her coming into the service in the year 1715 cannot reconcile her evidence; but in 1716 might answer to the child's going to Kinnea in 1718. That, however, would not correspond with her dry nursing of the child before the separation. I appeal therefore to your lordships, what dependence there can be on Laffan's testimony.

Lord Altham's taking the child to his lordship's house, and his kindness to him at Kinnea and Carrickduff, is a circumstance of no moment to show the legitimacy of the lessor of the plaintiff, in regard it is common to noblemen who have no lawful issue to give their children genteel education and keep them in a grand manner. God forbid that instances of that kind should obtrude an heir on the family. It is easily accountable by the plaintiff's evidences that the child was brought into the house after the separation and afterwards maintained by Lord Altham, and might be reputed by some as his lawful son; but if the birth be not proved all the rest of his evidence must fall to the ground. The defendant has proved that Lord Altham frequently wished that his illegitimate son was legitimate in order to cut out his brother. Therefore, supposing the declarations of Lord Altham's to be admitted, that can never be a sufficient inducement to believe the lessor of the plaintiff his lawful son. And

it is very obvious that if Lord Altham introduced him by the manner of expression, "This is my lawful son," as pretended by the plaintiff's witnesses, it is so uncommon a way of speaking that it supposes a suspicion of his illegitimacy. Serjeant Malone

I shall now proceed to the evidence in Proper Lane. John Byrne, the father, and Thomas Byrne, the son, and Patrick Plunket, produced as witnesses for the plaintiff, say that Mr. James Annesley was reputed the lawful son of my Lord Altham. Thomas Byrne says that the lessor of the plaintiff came to him in a mean condition in September, 1724, and that he concealed the lessor of the plaintiff for six weeks in his father's house. It appears by the testimony of Waldron that he went to school with him in Warborough Street, to one Dunn; and Dunn says that from September, 1724, to the Easter following he was at his school. So that his testimony and Thomas Byrne's do not square together. Dunn said he called him the young Lord Altham during that time; but if Byrne be believed he was then in the lowest condition, a poor boy destitute of all relief.

Lord Altham's behaviour after his leaving Proper Lane is the strongest proof that the lessor of the plaintiff was not his lawful son. Is it to be conceived that a father would throw off his lawful son at the age of about eight or nine years, and expose him as a vagabond, when the child is incapable of committing an offence that could deserve such punishment? The natural ties of blood must be supposed to operate, and it cannot be conceived that any man of the least humanity could be guilty of an act of that kind. But this conduct of a father may be reconciled in the case of a bastard, because he at first may believe that he was his son, and afterwards may be induced to believe the contrary; and the boy's being so incorrigible, as appeared in proof, might have some influence to raise doubts in his mind. But if he had any apprehension that he was his lawful son, the heir to his estate and titles, surely it is impossible to imagine he would see him so abandoned.

It was greatly to the advantage of the late Lord Altham to have a son. He had a remainder in tail in a great part of the Anglesea estate, expectant on the estate for life of Earl Arthur, who had no issue; and if he had a son he could have barred the remainder by levying a fine, and it would have been his interest to have done it, because his lordship could then make a better title to a purchaser; but if he died without a son the remainder over would take place, and consequently the estate would be the worse to a purchaser. But now let us see how the case would stand if Lord Altham had a lawful son. My lord, then, could have raised money by sale of reversions, in regard that the earl was but tenant for life; and it is well

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known that his having such a son must have procured him esteem and respect as well as profit, it being natural to show greater regard to those who are likely to transmit their estates and ties to their own descendants. And it must create an additional respect to his lordship to consider, if he had such a son, and should happen to survive the late Lord Anglesea, that he might with his concurrence dispose of his own and the Anglesea estate. Let the point of law be what it will, it appears by Colonel Wall (having taken opinion of counsel thereon) that Lord Altham, in 1725, thought it would be of infinite service to him to have a son that he might thereby enlarge his fortune; and while he was possessed with this belief, and in such a necessitous condition at that time, if he had any apprehension that there was a notion that he had a son and heir, would it not have been a good opportunity for him to take the child into his care and impose him on the public as his legitimate son when he knew the enlargements of his power in that case? Or, if he had a legitimate son which he might think proper to conceal for some time before, surely, then (as he judged it so much his interest to have a son), he would have declared it to the whole kingdom. Therefore his not doing so is the strongest circumstance to prove that he had none.

There is another weighty circumstance which must strike every person that hears this affair. Lady Altham was in Dublin from the year 1719 to 1724, when the boy was wandering about the streets in the greatest distress, and no application was made to her ladyship for the boy. Surely if he imagined he was her son he would have applied to her in such indigence. Moreover, Lady Altham lived at Ross three or four years, and in Dublin for four or five years, and never even mentioned the name of a son, except to Mrs. Margaret Hodgers, who was in the Temple before my time, and is better known by some of the gentlemen of the other side than she is to me; but her evidence must be an idle story. Mrs. Pegg Hodgers tells you she never saw her ladyship but once, and yet she comes into the room to Alderman King's, makes a low curtesy,* and immediately after my Lady Altham (who had never exchanged a word with her before) enters into conversation with her, tells Mrs. Hodgers that her ladyship had a child, and that you have better luck than I have; which appears to be very improbable. Lady Altham (as appears by Alderman King's testimony) lodged and dieted with him for about thirteen months, and frequently discoursed with him about her family

* Hereupon the Prime Serjeant imitated Mrs. Hodgers in a curtesy, and Lord Chief Baron smilingly said, "You have added a curtesy, Mr. Prime Serjeant, gracefully to her evidence."

affairs, and never made mention of a son to him; and I believe Serjeant Eyleone it will not be denied, but he deserves more credit than Mrs. Hodgers. I would observe to your lordships that Alderman King gives a very good account of the behaviour of Mrs. Heath, and this is a strong reason that she is to be believed before Mrs. Hodgers.

Mrs. Elizabeth M'Mullen, a witness examined for the defendant, says she was acquainted with Lady Altham for about seven or eight years, and frequently conversed with her ladyship whilst she lodged at her house, yet she never mentioned anything of a son to her, nor did she ever hear she had a son. And when my lady was apprised of the death of Lord Altham by Mrs. M'Mullen's letter to Mrs. Heath (dated 18th of December, 1727), yet Lady Altham never took notice of a son, and, notwithstanding she survived Lord Altham for two years, yet she never so much as spoke of a son. Though she was disordered in her limbs, her understanding and memory were not in the least impaired, for Mrs. Heath said she retained her senses to the last day of her death. Lady Altham was supported by the late Duke of Buckingham during his life, and by his duchess after his death; and her ladyship well knew she had friends who would be glad to support the birthright of her child if she had any; but as no such thing has ever appeared, and as nothing to that purpose has been offered in proof, it is obvious to human reason that her ladyship never had a child.

The transportation and prosecution are the only colours for this suit, which, were they out of the question, I dare venture to say that this cause would be hooted out of Court. But, gentlemen of the jury, I would beg leave to observe that suspicions of misconduct should not be a reason to judge of a matter of fact. Whoever is governed by suspicion must be governed by error. Misbehaviour may create a suspicion, but the fact proving the clearness of property should not intervene with suspicion, nor should be of weight against positive evidence, consequently ought to have no influence in determining this cause, and I cannot help saying it was cooked up to give credit to the story, for it is most likely that the boy indentured voluntarily, and that the defendant did not transport him against his own will.

Dominick Farrell, a witness for the plaintiff, sets out as seeming to be a gentleman of credit and figure by his visits to Dunmaine. There he says he saw the lady dandle and treat the child; but his testimony cannot be true, because he says he saw the child in Dunmaine in 1717 or 1718, yet the separation happened in February, 1716. Farrell, my lords, is ushered in previously to the transportation to show that it was he recommended the boy to Purcell, and how charitably Purcell

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behaved to the boy. I must own it is not common to see instances of humanity from a butcher to support the child of another person out of mere charity. However, I shall only observe some contradictions in the testimony of Farrell from the plaintiff's other witnesses. He widely differs from them as to the period of time of his seeing the child in Dunmaine in 1718; and he likewise varies from Purcell in other particulars. Farrell says he called the boy when he saw him riding in Smithfield; and Purcell says the boy was talking to Farrell when he first saw him. Purcell says the boy was present, and Farrell says the contrary. Farrell swears it will be eleven years next Christmas since he went first to Cork to live, and that the boy was at Purcell's when he went there, and a year and a half in Purcell's care, and therein he stands falsified by the rest of the witnesses.

It is very improbable that an attempt should be made to kidnap the boy at Purcell's, and that Purcell should not apply to a magistrate, especially when he believed that further attempts were intended to be made; and it adds to this improbability that he, who was so fond of the child, should never make any inquiry for him after he parted from his house. Purcell says, further, that he educated him as his own boy, and that the boy called his wife mistress, which seems very strange that Purcell would admit him so to do, he being told by Farrell that he was son to Lord Altham; and it likewise seems somewhat odd that the boy would leave Purcell's (where he was used with so much kindness) unknown to him, and without any provocation given by Purcell, to wander about the streets. But there can be no dependence on the weakness of such evidence.

As to the transportation, the account given of it is very improbable; that the defendant, then Lord Altham, would in his usual dress, when he could have disguised himself, and at noonday, direct the boy to be carried near the very stall where Purcell was, who was the boy's only support and best friend, and a mob to rise by means thereof, yet that no notice should be taken of him. Can it be believed that if the defendant could be capable of such an attempt that he would be such a fool to choose that time of the day for his purpose, when it might be done at any other time without running such hazard or danger!

Now, let us see how the witnesses for the transportation coincide with each other. Byrne, the constable, swears that the boy was put into the boat in a quarter of an hour after he came to George's Quay, and that the defendant appeared publicly on the quay. Reilly, the servant, swears defendant was on the quay when he sent him to borrow the guinea; and that he stayed for about an hour and a quarter, or an hour and

a half, and at his return found defendant still on the quay; and as Inchicore (the place where he got the guinea) is near three miles distant from the quay it must be reasonably supposed Reilly took more time than he reckons going to and coming from thence. It was said that Donnelly went first into the boat, and afterwards it was said my lord went first, and Donnelly last. If these witnesses are not to be believed in the whole, they should not be believed in part, and as Byrne and Reilly differ about the time it must bring an imputation on their credit. Serjeant Malone

The next proof of the transportation is the books of the late Mr. Stephenson and the Tholsel books. From the latter it may be concluded that James Annesley transported himself as a servant, for there the name of James Hennesley is found, who appears to be indentured; and though the name of Hennesley is not entered in Stephenson's book, yet, notwithstanding, it must be supposed that Hennesley and Annesley is one identical person, because Hennesley is among the names of those who went with the same master and the same ship which is entered in Stephenson's books. This will appear the more probable, as they are names of almost an equal sound; for He is sometimes pronounced like Ha—for instance, Hertfordshire is pronounced Hartfordshire; and Ha sometimes sounded like A alone; the surname Henderson pronounced Anderson. It may be very well presumed that Hennesley and Annesley is one and the same person; and the probability weighs that the lessor of the plaintiff was tired of wandering and strolling about the streets here and therefore transported himself beyond he seas.

Now, I shall observe to your lordships the evidence of Mr. Giffard with respect to the prosecution, but as it has been already animadverted on when he was on the table, I shall trouble your lordships but with very little with regard to him. This gentleman comes voluntarily to betray his client, who could not be compelled by a process from a foreign kingdom, and therefore no stress should be laid on his testimony. If there had been any method used to oblige him to discover the secrets of his client there might be some inducement to give him credit, but when he appears here in another light it must be supposed there hangs some bias on his mind. He owns that Lord Anglesea provoked him because there were disputes between them on account of bills of cost; and as Giffard has shown a resentment on that occasion, he cannot be said to be an uninfluenced witness, and though he might be employed by the defendant in the prosecution when no improper means were made use of, the defendant cannot be said strictly to be guilty of a crime. Indeed, it is very improbable that the defendant could be so weak as to make

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such declarations to Giffard, and thus having put himself in his power, to fall out with him for so small a sum as £200.

I am sorry to mention what contrivances there have been made use of to throw dirt at the defendant, and no art has been omitted to take away the credit of his evidence. A bill has been filed against Mrs. Heath to discover Lady Altham's effects, which was purely calculated in order to prevent her from being examined on behalf of the defendant. Why was a lieutenancy offered to Rolph? The tendency of it is easily seen through, to induce circumstances of suspicions. The Earl of Angelsea was then in great distress, being involved in so many suits, by which he was perhaps actuated with resentment; and a man thus enraged may possibly say things contrary to his sentiments, which on proper reflection may fill him with concern. He was then inflamed with passion, and might probably think a proposal of a sum of money might extricate him from his difficulties. However, Giffard is but a single witness, and not free from influence, but truth is not to be controlled by suspicions.

My lords, I fear I have taken up too much of your time, and of the gentlemen of the jury. I shall now conclude by observing to your lordships that no man can be safe in his property if a child thus trumped up is to trip up the heels of the rightful heir to the family, because a precedent of this kind might be attended with the most dangerous consequence to every gentleman's family; for if it should at any time happen that a man should have a child born out of wedlock who by some means or other might fall into the hands of artful men, he might set up some pretensions in prejudice to the lawful heir by the same plan, and by such evidence as is cooked up for the lessor of the plaintiff. Therefore, to prevent any such impositions on the public, and to deter all adventurers from engaging in such practices so destructive to society in general, and for the sake of justice, I hope the gentlemen of the jury will give a verdict for the defendant.

Solicitor-General

Mr. Solicitor-General, counsel for the defendant—My lords, the evidence on both sides has been so fully spoken to and so clearly stated by Mr. Prime Serjeant that I shall only trouble your lordships and the gentlemen of the jury (who have the greatest estate in their disposal that was ever tried by any jury) with some observations on the evidence produced on behalf of the plaintiff.

The Lord and Lady Altham were married very early, and cohabited a long time in England without having a child. They separated for some time, and in 1713 were re-united. Before the re-union no proof has been attempted to be made by the plaintiff that Lady Altham was a fruitful woman;

but after the reconciliation, in order to support a pr. ..ded birth, it must be thought necessary first to prove her ladyship's fruitfulness by two supposed miscarriages. The evidence of Mrs. Cole is endeavoured to be applied for proof of the first miscarriage, which, she says, was occasioned by the china saucers being thrown by Lord Altham. But the improbability of her evidence is very clear in regard that the saucers were levelled at the butler and not at my lady; how could her ladyship be displeased at what was intended to her as a compliment? Moreover, as it does not appear at that time there was any cause of quarrel between my lord and lady, so there could not be a presumption of a fright, or consequently of a miscarriage. The account Mrs. Bates gives of the first miscarriage is absurd; the bare mention of it is sufficient to reject it. Is it probable that my Lady Altham, who is proved by plaintiff's witnesses to be a proud, exalted woman, would admit such an ordinary, mean servant to be so familiar to put her hand on her ladyship's belly? Solicitor-General

Mrs. Doyle (the chambermaid) and Murphy (the laundry-maid) must next come on to prove the pretended birth at Dunmaine, yet not one person of the family must either know or hear anything in relation thereto. The rule of reason is to prove great things by great persons and low things by low persons, and every proof ought to be adapted to the nature of the thing. It has appeared that in the year 1715 the Earl of Anglesea was so afflicted with the gout that Lord Altham apprehended his life was despaired of, and it was judged by most people he could not live long. Lord Anglesea then resided in that part of the country, and had no prospect of having any issue, yet he never heard of the Lady Altham's having a child to be heir to the title and estate of his family. Doyle and Murphy swear they lived in the house of Dunmaine at the time of the birth, and here they stand contradicted by Rolph, whom they said they never knew to live there, though he was the butler at the time they would pretend the child was born. Every one of the witnesses for the plaintiff, except Doyle, say that Joan Landy was not married till after the birth, but Doyle says she was married before the birth, consequently she should be looked upon as a made witness. Murphy contradicts herself as to the time of the eclipse. She swears she was then at Madam Butler's at Ross, consequently she could not be at Dunmaine at the time prefixed for the birth; so unless we suppose her in two places at one and the same time, her evidence must be repugnant to truth.

Breen (a labourer's son) and Brooks (a petty surgeon) are the next witnesses for this pretended birth. Brooks says he bled Lady Altham just before her delivery. I believe, my

Solicitor-General

lords, it is very unusual for women to be let blood on such occasions. Brooks very modestly tells you he was but a piece of a surgeon, and I fear he was but a very indifferent one, otherwise he would not venture to bleed in the dark (without a candle). Mr. Sutton, a very eminent surgeon, who was well acquainted with the family, and lived in the town of Ross, was not sent for. The quack was preferred to him. How reconcilable this can be, I appeal to your lordships.

Christopher Brown is produced by the plaintiff as to proof of the pretended christening. He had his lesson to be exact as to the godfathers, but cannot tell any other person in company though he waited at table that day. He describes the great hall where he dined, yet it appears by Scott there is no such hall in the house. But, my lords, it is plain that the only way of detecting these evidences is to take them out of the road they were instructed in, and by other circumstances the inconsistency of their testimony is shown. When Brown was asked to name any of the servants that dined with him, he could not tell. It is needless in me to remark how improperly he gave his evidence; your lordships must have it on your memories.

The transaction at Wexford Assizes has appeared to your lordships, and the defendant has proved very fully the Lady Altham's being there at that time. If that be true, as appears from the circumstances (which they mentioned) of the Lord and Lady Altham's going there, to wit, that my lady and Mrs. Giffard went in a coach, my lord rode, Mrs. Heath rode, and such and such servants rode, I say then there was no appearance of a child. Thus, consequently, the pretended birth must be overturned. To disprove this Mr. Colclough is produced. He was then on the grand jury, and so engaged that he did not notice the Lady Altham; and though it is allowed Lord Altham was there, he owns he did not see him. By the very same reason Lady Altham and Mrs. Giffard might be there, and possibly have escaped his sight.

I shall not trouble your lordships with respect to Major Fitzgerald. He stands opposite to all the other witnesses in point of time as to the supposed birth.

I beg leave to observe to your lordships that Higginson's evidence is attended with a good deal of doubt and uncertainty. He said he was at Dunmaine, and that Lady Altham (whom he never saw before) called to him and gave him a glass of wine, and he drank to her safe delivery. If the plaintiff thought him so material a witness, how comes it that his name was not given in at the beginning of this trial among the list of the plaintiff's other witnesses, and not to intrude him at the close thereof without the defendant's knowledge? It is plain he was only produced to stop a gap. From

such kind of evidence the jury can discern on which side the probability lies. Solicitor-General

My lords, it appears (from a previous application to Mrs. Heath) how sensible the plaintiff was of the force of her evidence, and therefore a bill was thought proper to be filed for prevention thereof; which plainly demonstrates that the lessor of the plaintiff was afraid of his pretensions being affected by the weight of her testimony. One Hussey has attempted to contradict Mrs. Heath. He says he spent most of his time in England, and he flourishes so genteely on himself in his examination that one should take him for a gentleman of figure and distinction. He tells you that he ordered his servants to put up the person's horse who served him with a subpœna; that he has vouchsafed to come up to Dublin; that he had an employ in one of His Majesty's yachts in England; and when this affair is discussed he is only a common waiter to the Board of Green Cloth, and his religion prevented him from being entitled to a commission; and though he gives you an account of Mrs. Heath's changing her sentiments at the second conference differently from the first, yet he never remarked the same to her. But it is easily seen to what purpose he is examined, for when the stratagem of a bill could not take place this knight-errant (if one may call him so) is produced, having no other expedient to control Mrs. Heath's evidence.

I must say it is next to an impossibility to imagine that Lord Altham, who had a private estate of his own and the expectancy of the Lord Anglesea's estate, should have a legitimate son and heir, and that the Pallisers (who were acquainted in the family), or that Mr. or Mrs. Lambert, Mr. Elms, or Mrs. Giffard, who (as plaintiff's witnesses confess), visited Lady Altham, should know nothing thereof; nay, that even the neighbouring tenants must be strangers to it. How can it be reconciled to the common rules of prudence and good-nature that, if Lady Altham had a son, she should send the child to be nursed by a mean woman of an ill-repute, by a woman who had criminal commerce with her husband? Surely a lady of her rank and distinction would not have made choice of such a nurse. It is plain, then, that the supposed birth must be only a fiction complicated with absurdities.

We allow that the lessor of the plaintiff might be Lord Altham's son by Joan Landy, and that Lady Altham, conceiving a displeasure against her, and being incensed against Lord Altham for the dishonour done her, would not admit Juggy Landy in the house of Dunmaine, and this seems the most rational way of judging.

Laffan, Murphy, and Doyle tell us that a new room was

Solicitor-General furnished in Landy's house, and the child sent thither to be nursed. It is equally improbable that Lord and Lady Altham should not have more care and tenderness for a son born to such honours and titles than to send him to a new-built room, or to subject an infant to a cold and other disorders.

It is very manifest, my lords, how ingenious the conductors of this affair have contrived it, to have fixed on persons to be sponsors who are long since dead; and though they have cooked up a story as artfully as they could, they could not still frame it free from improbability. We find that the sponsors were not equal to the birth, and one of the godfathers, Mr. Anthony Colclough, was a Roman Catholic. If my Lord Altham had a son by his lady it is presumed he would not have pitched on a papist to be godfather, who by the laws of this kingdom is not qualified to stand surety for a Protestant child in baptism. At the time of this pretended christening the Duke of Buckingham was then living; Lord Haversham and the late Earl of Anglesea were alive; the Duchess of Buckingham was alive, they were relations to the family, and would not refuse being sponsors, but would have readily offered themselves on that occasion; so that I say, my lords, fiction detects itself through the whole affair.

I would take notice to your lordships that the late Lord Altham happened to be somewhat extravagant, which occasioned his want of money, and therefore proposed selling the Altham estate. If his lordship had a son he could have made a better title to purchasers, as Mr. Prime Serjeant observed.

The two props which support this cause are the transportation and prosecution, but the title here contended for by the plaintiff ought to be proved beyond all contradiction, and I would beg leave, my lords, to remind your lordships and the gentlemen of the jury that on the death of the late Lord Altham the Altham estate devolved to the late Earl of Anglesea, and nothing descended to the defendant but the title. And therefore I would observe as to the transportation, that as it appears the lessor of the plaintiff wandered about the streets in an idle way, it is most likely he voluntarily transported himself. If the defendant apprehended he was to come into possession of the Altham estate, after the death of his brother, there might be some reason offered for the kidnapping, but as the defendant, the Earl of Anglesea, could reap no advantage by so strange a proceeding, the thing appears very improbable and romantic.

The Duke and Duchess of Buckingham and Lord Anglesea were alive when the late Lord Altham died, and it cannot be supposed, if he had a son, but that they would have been glad to have taken care of him, and that he might receive a proper education suitable to his high rank and quality. I humbly apprehend there is another incident very proper for

the consideration of the jury, that is, that the Lady Altham continued in Dublin for about five months after Lord Altham's death. It is surprising, if she had a son, she should make no opposition to the defendant's taking the title of Lord Altham, or that some of his noble relations should not have asserted his right. Another circumstance occurs in this affair, that if Lady Altham left a son it may be presumed that some of the gentlemen who took leases from the late Earl of Anglesea, of the Altham estate, would have been glad to have set him up either in point of charity or humanity, or perhaps out of aversion to the late Lord Anglesea. Solicitor-General

We may infer from Mr. Tighe's behaviour to Mr. Annesley that he did not believe he was the son of the Lady Altham. He is a gentleman of character, and it cannot be supposed that any man susceptible of the least generosity or good nature, if he had any apprehension of the plaintiff's legitimacy, would admit him to be a turn-spit or wear a livery. Moreover, Mr. Tighe, by his profession, being bred to the law, must know what proper steps were to be taken by the lessor of the plaintiff, if he was Lord Altham's son, to recover his right, but his not troubling himself about that matter is a strong presumption he had judged him to be what he had heard, the natural son of the late Lord Altham.

My lords, as this is a cause of the greatest consequence that ever was tried by any jury, it must be a singular pleasure to every person concerned (and I am sure it is so to me) that jurors of such worth, honour, and probity at this time are to determine an affair of such importance; and as nothing but justice can influence the minds of gentlemen of such distinction I hope they will find a verdict for the defendant.

Eaton Stanyard, Esq., counsel for the defendant—My lords and gentlemen of the jury, the question to be considered is, whether Lady Altham ever had a son? And, if she had, whether Mr. Annesley, the lessor of the plaintiff, is that person? And if this cannot be proved clearly, the jury cannot rely on presumptions. E. Stanyard

My lords, it was thought proper to introduce two miscarriages previous to the birth. The plaintiff pretends to assign as a cause of the first miscarriage the breaking the china saucers. This piece of evidence appears very improbable, because destroying the cups was intended a respect to my lady. Can it be conceived, my lords, that Lord Altham, who was so solicitous for a son and heir by my lady, would not be more cautious of putting her into frights which might endanger a miscarriage? It is sufficient to destroy the credit of Mrs. Cole that the account she gave of the abortion should be communicated to a young child. As to the second mis-

E. Stanyard

carriage, there can be no colour to have the least reliance on the testimony of Catharine MacCormick in support of it. It has appeared that Mrs. Blake is a relation to the family, and visited Lady Altham in Dublin at the time MacCormick pretends the second miscarriage happened, yet my lady never told her a word of it. Mrs. Hannah Shaw swore that Catharine MacCormick mentioned to her that Lady Altham never had a child, and MacCormick further signified to Mrs. Shaw how application was made to her by a person who used to get evidences for the lessor of the plaintiff. Therefore MacCormick's evidence can have no weight, and, if proved to be false, brings a disrepute on all the rest of the evidences.

Now, let us see how this pretended birth is proved. The plaintiff's witnesses say that a midwife was sent for to Ross, and that Dennis Redmonds was the person pitched upon for that errand. Can it be presumed that if Lady Altham was in that condition care would not be taken that a midwife should be in the house some time before the birth, and not be under the necessity of sending for one the moment she was in labour? There was nobody to assist her but Mrs. Heath, and none attended her ladyship but a chambermaid and a laundrymaid. Every expectation, my lords, from such a birth would induce better attendants and more proper nurse tenders. It is surprising that Redmonds should not know for what purpose he was sent, and that he should leave the midwife in the yard without taking any further notice of her, and go immediately to the stable to take care of his horse, which it seems he regarded more than the midwife. As to Brooks' testimony, it is a heap of nonsense and absurdity. He swore he was a piece of a surgeon for forty-seven years, and was so ten years before the birth of the child, and yet is but fifty years old. He afterwards said, when he was cross-examined, that he practised surgery since he was four years old; and says he did not consider what quantity of blood he had taken from Lady Altham. He said he had a farm at a place called Fareen, near Ross, yet no gentleman of that neighbourhood knew of any such man living there. Besides, this must be attended with all imaginable inconsistency. It was uncertain to meet him at home, but there was a certainty of meeting a surgeon in Ross, and one better skilled in his profession. So that on the whole, what regard can be paid, my lords, to evidence so diametrically opposite to all the rules of probability?

Turner is a witness not to be credited; the manner of his faltering in his examination induces a suspicion. He fixes the time of the eclipse ten months after it happened, but it seems he was not prepared to give any answer to that period. So that we find when these witnesses are taken out of their course they are at a loss what answer to give. Scott says he

used to come to Dunmaine with how-do-yous in inquiring after the child's health, and that he delivered messages to Laffan, and sometimes to Rolph; and that Rolph was butler at the birth of the child, though Rolph and Laffan swore they never saw one another before the day of their examination. In fine, he stands in opposition to the plaintiff's other tribe of witnesses about Rolph being in Dunmaine at the time of the birth. E. Stanyard

Mrs. Giffard's testimony is supported by the servants of the family, that Lady Altham was at Wexford Assizes, and lodged at one Sweeny's. Mr. John Kerr has proved the time of the assizes, and that Lord Chief Justice Foster went that circuit. This is a circumstance very material, and that entirely overturns the plaintiff's whole system, for by the plaintiff's evidence she must be with child or lying-in at that time, which cannot be true, because she was then in Wexford. And Lady Altham could not be brought to bed in May subsequent to the assizes, because she was on the 28th of that month (being the birthday of King George the First) in Dublin. I must beg leave to say that Mr. Colclough did not destroy a tittle of what Mrs. Giffard swore, for he said he did not see Lord Altham then at Wexford; yet Higginson paid his lordship £20 there, and Mr. Colclough might as probably have overlooked Lady Altham there as his lordship.

Mary Doyle and Eleanor Murphy are quite contrary to one another in point of evidence. Doyle says the child was christened in the big parlour, and Murphy swears it was in the yellow room up one pair of stairs. As to Higginson, it is plain he is produced as a witness to intersperse false facts with real ones; he says he only received the rents of the estate near Nanny Water, but not of the Ross estate. He describes part of Lady Altham's dress; that she wore a white apron and a white handkerchief, and adds that her ladyship was big with child. Is it probable, my lords, that she would come down two pair of stairs and call for wine for him, and all this while he was on horseback, and would not even vouchsafe to pay her ladyship the common compliment by alighting? Nay, it can't be presumed that a lady of her high spirit would come down stairs, but would have chosen on such an occasion to send her servant. I must repeat it, that here a false fact is tacked to a real fact by the ingenuity of the managers to give a colour to the fiction.

I come now, my lords, to the testimony of Catherine O'Neill, which I can't help calling a scene of iniquity. She says she went to Lady Altham in Cross Lane, in Dublin, and told her the circumstances of the child. Is it natural to imagine that a lady (lost to all comfort, being then separated from Lord Altham) should be told that her only son was begging about the streets, and would neither inquire nor send for him? This

E. Stanyard witness says, further, that her ladyship's reason for not admitting any of the servants to carry the child to see her was for fear it might occasion them to lose their places. Can it be presumed that a distressed mother would set a greater regard on what might have happened to a servant than on the welfare of her only child, or that she would have neglected him in that manner? No, my lords, the direct contrary must be supposed, and that she would have been glad to see him at any risk, that proper care might be taken of him. But Alderman King's testimony clears it up—that my lady had no son, for if she had she would most certainly, some time or other, have spoken of it while she lodged at the Alderman's. And would it not be the greatest satisfaction to herself, in case she had a son, to bring him to England along with her? The Duke and Duchess of Buckingham and all her relations in England would have received with pleasure and educated with great care a son who might in time by his rank and fortune become conspicuous. Besides, her interest, as well as nature, would have induced her to it, for, after the death of the late Lord Altham, Lady Altham might become guardian to the child. She had a natural right to that trust, and out of great estates large allowances are given to those who are entrusted with the care of children, and where such a trust devolves on a parent, otherwise indifferently provided for, that incident is of some weight with a Court of equity to be more liberal in their allowance. These considerations might be additional motives to induce her to take care of his education and espouse his interest, and as one of these things appeared in evidence, it is contrary to all reason in the world to imagine that the lessor of the plaintiff can be the real or legitimate son of Lord and Lady Altham.

As to the transportation, your lordships will please to observe that Crommy swears that Skellern made entries in Stephenson's books, for fear of being imposed upon, of the several persons that went aboard, and that the clerk came aboard and took a list of all persons, and called them over on board before the ship sailed, and every person walked by as he answered to his name; and though the boy might answer to the name of Annesley, the master of the ship might pronounce it Hennesley, and write it so; and when he went to the "Tholsel" to give in the names to Mr. Gonne, the town-clerk, he might spell the name Hennesley instead of Annesley, and thereby occasion a mistake in the "Tholsel" book. But can any one pretend to say, if the boy was forced away, that when Mr. Skellern, the clerk, came on board to take the names, the boy would not have complained of his misfortunes and of his being taken away by force, or made some clamour, and then he might have been

redressed? Yet it has never appeared that the plaintiff made E. Stanyard
any such complaints.

It is very evident, my lords, that no industry has been wanting in the plaintiff to seek out for witnesses in order to deprive the defendant of their testimony. How comes it that a dinner of lamb and other victuals has been sent by Mr. Mackercher to Rolph's house? Why was there application made to Rolph by him? Why, truly, because he was informed that Rolph was in the family, and that he was a material witness.

I must take notice to your lordships that the testimony of Cavanagh, who is examined for the defendant, is very strong, though he does not take upon himself to swear as to positive time, yet it shows what he swore was true, and should have weight with the jury.

Hussey made himself very inconsistent on his examination. Was it natural when he found, as he said, that Mrs. Heath changed sides, and that she was a peremptory witness, that he would not have expostulated with her thereupon? He has been pleased to ramble much in the course of his testimony by giving an account of his gravel walks, but if he came here to tell truth, what occasion was there for those excursions? Unless he would make us believe he was a man of greater consequence than he has appeared to be.

My lords, the plaintiff's pretensions are attempted to be supported with the slightest proofs. Your lordships and the gentlemen of the jury will take it into their consideration what objections have been made to the plaintiff's witnesses, how inconsistent each one of them has been with himself, and how inconsistent they have been all with each other; and if the lessor of the plaintiff is to prove his legitimacy it should be by positive and uncontrovertible evidence, and not by suggestions or presumptions. A supposed child is an injury to the original donor, to the remainder-men, to lessees and purchasers, and to the public in general. To me it is astonishing, and I believe it is so to all mankind, how it can be presumed that Lady Altham should have a child, and that her ladyship should not claim it whilst she was living.

I fear I have trespassed too much on your lordships' time, and on the gentlemen of the jury, and shall only observe that the defendant is now possessed of the estate of the family, and as his birth is unquestionable, and that there is all the doubt and uncertainty in the world attending the pretensions of the lessor of the plaintiff, I hope the gentlemen of the jury will think a verdict ought to be found for the defendant in possession.

Court—Gentlemen of the jury, will you please to take

any refreshment before plaintiff's counsel begin to speak to the evidence on their side of the question?

JURY—We humbly thank your lordships; we shall be glad to refresh ourselves.*

COURT—Gentlemen of counsel for the lessor of the plaintiff, please to proceed.

Serjeant Marshall

MR. SERJEANT MARSHALL, counsel for the lessor of the plaintiff—My lords and you gentlemen of the jury, I am in this cause of counsel with Mr. James Annesley, the lessor of the plaintiff. I believe there has scarce been an instance in any age of such a scene of iniquity, cruelty, and inhumanity as this, with which Mr. Annesley has been persecuted for the course of many years. He has been kidnapped, transported, and sold as a slave for thirteen or fourteen years. The very recital of it must excite compassion in every human breast. When his slavery was expired he came into England to assert his right, but had the misfortune to shoot a man accidentally, and then the defendant (I am sorry to mention it) contrived to indict him for murder at the sessions at the Old Bailey, held for a gaol delivery for the City of London and county of Middlesex, where the lessor of the plaintiff was tried, and honourably acquitted.

The defendant's counsel in opening his case said they would prove the plaintiff applied to several people, and told them he would be pleased to go overseas, and that he was not kidnapped, and that no force or compulsion was made use of to transport him, but that he went abroad voluntarily. Yet, as the gentlemen have not attempted to prove it, it stands uncontroverted, that the plaintiff was spirited away by the defendant, the Earl of Anglesea, to feel the effects of slavery in America, to subject him to the dangers of the seas and inclemencies of different climates, with intention to put an end to a life that stood in the defendant's way. But the hand of Providence has still protected him in the midst of his afflictions. Admiral Vernon contributes to have him conducted to these kingdoms, and good fortune furnished him with friends when his life was thirsted after. He now comes into Court before your lordships to support his undoubted right and show the world the severities he underwent.

The lessor of the plaintiff was very young, about twelve years old, when he was kidnapped and transported, and thus deprived of an opportunity of asserting his right. He was abandoned

* It was now between four and five o'clock in the afternoon, when the Jury refreshed themselves for about half an hour.

and reduced to the lowest ebb of misery. The defendant, the Earl of Anglesea, had new additions of honour and title by the plaintiff's misfortunes; and being of a proud, avaricious disposition, tempered with cruelty and inclined to oppression (it is with reluctance I mention these characters), could not bear that a boy in those low circumstances should succeed to the Altham estate and title, or be presumptive heir to the Earl of Anglesea. Expedients were to be found out to prevent his arriving at these honours, which were accordingly put in execution. The defendant would endeavour to overturn the plaintiff's right by pretending an insufficiency of his evidence. But, my lords, this must be a vain pretext, since he himself was the sole occasion thereof; and as the transportation has been proved as clear as the noon-day, the defendant, the Earl of Anglesea, must be considered as a spoliator in law, and must not take advantage of the difficulties arising from the wickedness of his own acts to prejudice the plaintiff

Serjeant Marshall

If the lessor of the plaintiff at the time of the fatal transportation, about fifteen years ago, had been admitted to prosecute his just right he then might have had an opportunity of proving his birth by demonstrative, undeniable evidence. I say, therefore, by this means the defendant has advantages abundantly superior to him, while the lessor of the plaintiff labours under the greatest disadvantages; and, indeed, considering the nature of the thing, it is very providential that at this time of day any of the plaintiff's witnesses who prove his birth happen to be living. When I come to speak to the evidences on both sides, and compare them together, I believe I shall be able to prove that the probability is to be applied to the evidence of our side, and that they deserve credit, and show beyond all doubt the legitimacy of the plaintiff. There may be, my lords, some little variations in our evidence, but this is very natural considering the distance of twenty-eight years since the lessor of the plaintiff was born.

I shall beg leave to lay before your lordships and the gentlemen of the jury the nature of the plaintiff's case, and hope your lordships will pardon me if I happen to repeat anything which I formerly mentioned when I had the honour of stating the plaintiff's evidence before we proceeded to the examination. It has appeared most evidently in my humble apprehension that the plaintiff was born at Dunmaine, in the county of Wexford, and is the son of Arthur, late Lord Altham, by his wife the Lady Altham. It seems Lord Altham was a passionate man, and my lady was a sickly, puny woman, and for other reasons, which I shall mention by and by when I come to speak to what was urged by defendant's counsel to that particular, it was thought proper by Lord and Lady Altham to send their child to Joan Landy to be nursed, who was

Sergeant Marshall

married (as appears by some of the plaintiff's evidence) to one MacCormick, a sailor, by whom Joan Landy had a child. Some of the witnesses have said that Lord Altham had got Joan Landy with child. But let that matter be as it may, after her quitting the service she went to her father's house, on the lands of Dunmaine, and there lay-in some time before Lady Altham was brought to bed of a son. My lady suspected Lord Altham was the father of Joan Landy's child from informations her ladyship received from some busy people; but being afterwards convinced that Landy had a child by her husband MacCormick, then Lady Altham sent the lessor of the plaintiff, her ladyship's son and heir, to be nursed by Landy, and though the defendant's counsel would endeavour to urge how careless Lady Altham was with respect to her child from this particular, yet I believe your lordships and the gentlemen of the jury have it in their notes what circumspection was used to examine the milk of Furlong's wife, and it appearing unsound by the opinion of one Dr. Brown, the lessor of the plaintiff was sent to Landy to be nursed, she being approved a fit person for that purpose. It appears that all proper care was taken to fit up Landy's father's house proper for the reception of the child, and that Lord Altham caused a co h road to be made from Dunmaine to Landy's house for the conveniency of his lady's visiting the child, where the child remained at nurse for about eighteen months, until my Lord Altham took him home and took the proper care of his person and education.

And now I must mention that my lord and lady separated on account of an unfortunate suspicion of Mr. Thomas Palliser, and afterwards my lord became familiar with one Miss Gregory, who expected his lordship would marry her in case Lady Altham had died. She, it seems, was my client's bitter enemy, because she apprehended he was a bar to her ambition, and having a great ascendant over Lord Altham she contrived to set the boy adrift naked to the world when he was scarce eight years old, and very artfully gave out that the boy was the son of Joan Landy. And the boy being thus abandoned knew not what to do, but wandered about the streets, and the defendant afterwards readily encouraged the report of his illegitimacy to serve his iniquitous designs of usurping his title, and therefore transported him to America in hopes he should never more be heard of.

We have produced Mrs Annesley, who is married to a near relation of the defendant, who swears positively that it was well known in the family that Lady Altham had a son. If the title of the lessor of the plaintiff was a mere pretension (as contended for by the gentlemen of the other side) it is surprising that the Earl of Anglesea would not produce any

one person of his family in favour of his side of the question, though he is so well acquainted with them, and might have influence enough to produce them, if they could testify anything against the plaintiff's right. Mr. Higginson says it was known in Enniscorty that Lady Altham had a child; and Alderman Barns says it was well known in Ross. Yet I say none of the family has been produced to declare that it was not known.

The counsel on the other side would endeavour to lay a mighty stress on the meanness and poverty of some of the plaintiff's witnesses; but how trivial this objection is I appeal to your lordships and the gentlemen of the jury. It is impossible to keep witnesses alive, and we must prove our right by such witnesses as are living. The plaintiff came to England as early as he could to claim his title.

Mrs. Heath says Lady Altham was visited but seldom, and but by very few neighbours in that country. Indeed, she says Mrs. Pigot visited her ladyship. I must own, in my own opinion, those that were produced were not suitable visitors for a lady of her distinction. There are two women produced for the defendant who paid her ladyship visits, but they never visited her after the separation, and I am afraid they are not persons to be credited—at least in point of virtue, one of them has been strangely represented in Court.

Mrs. Cole, my lords, is a woman of unquestionable credit. She says Lady Altham came to Ireland in 1713, and it was said she was with child in that year. Her ladyship lodged first at Captain Briscoe's; from thence she went to Mr. Vice's, and from Vice's to Dunmaine. She swears Lord Altham threw some saucers near her ladyship's forehead, which occasioned her miscarriage. Lady Altham, by the defendant's witnesses, is represented a haughty, proud woman, which is a strong reason to believe she was then affrighted, and that such an accident might be attended with the consequences which afterwards happened. The waking of Mrs. Cole's mother at night is a circumstance that must strike her memory so strong as not to be easily forgotten, and as the defendant's counsel appealed to the gentlemen of the jury, I likewise submit to them whether a girl of thirteen years is not old enough to inquire into and know what a miscarriage is.

As to the second miscarriage, at Vice's in Dublin, Catharine MacCormick only said that there was a suspicion of a second miscarriage, and that it was so reported, but did not say that Lady Altham miscarried. And this suspicion was confirmed by Mrs. Heath, who owns that there was a quarrel between Lord Altham and his lady, that a midwife was sent for, and that Lord Altham declared that he would send for one, and that if she was not with child he would put her

Serjeant Marshall

away. The reason that Mrs. Heath says that my lord gave for his sending for the midwife appears to be idle and without the least shadow of truth, because my lord continued with my lady afterwards, till February, 1716, so that it is plain Mrs. Heath must have found out this private reason of her own. The plaintiff's counsel asked Mrs. Cole and Mrs. Briscoe what they heard with respect to Lady Altham's being with child, and they were prevented by the defendant's counsel from answering as being matter of hearsay evidence; yet from the objection it ought to be inferred, and the gentlemen of the jury must presume so, that Mrs. Cole and Miss Briscoe's mother told them that Lady Altham was with child. As to the freedom used by Lord Altham with Mrs. Bates, from what has appeared of Lord Altham's disposition even from the defendant's witnesses, it is not in the least improbable; for do not all of them mention the intimacy they had with Lord Altham? And pray, why might he not be as free with Mrs. Bates, by clapping her on the shoulder, as Mr. Prime Serjeant mentioned?

It happened that very few neighbours visited Lady Altham when she was brought to bed. Mrs. Butler was the only neighbour who paid her visits, and to whom her ladyship fled for refuge at the time of the separation. She was in the room at the time of the birth, but she is dead. Lord Altham was not visited by any people of rank, for Colonel Loftus says he did not visit him. So that, my lords, considering the distance of time, and the disadvantages my client is under, he has given as convincing proofs of his title and legitimacy as the nature of the case can well admit. The defendant's counsel have shown a good deal of ingenuity in puzzling and perplexing the plaintiff's evidence on the cross-examination. Yet the truth remains entire and unquestioned that Lady Altham was brought to bed of a son, and that that son is the lessor of the plaintiff. And though the plaintiff's witnesses might vary about the time of the eclipse at this length of time, that cannot be material; nor whether the birth was before or after the eclipse; nor whether one servant was in the house before another servant, the fact remains proved, the birth of the lessor of the plaintiff is ascertained. Nay, the variations show that the evidence is not framed; for if there was an exact agreement between witnesses it would be an argument they were instructed in their story, which answers the defendant's objection in that particular. And though the defendant would endeavour to show that maidservants are not the proper witnesses for such a birth, surely, my lords, as this case is circumstanced, the servantmaids who lived in the house are the most likely persons to be informed of an affair of that nature.

Speeches.

Mr. Higginson (whom I shall have occasion to mention further hereafter) is a man of unquestionable character, and his evidence for the plaintiff is strengthened by such circumstances that plainly show he could not be mistaken. He proves particularly the time as to her ladyship's pregnancy, and his character was not attempted to be impeached by the defendant's counsel; for when Colonel Loftus and Mr. Colclough were examined as to the character of other witnesses no questions were asked as to the credit of this gentleman. Lord Mount Alexander, my lords, says that Lord Altham had protested to Captain Groves that his wife was with child. Colonel Pigot and Alderman Barns swear that it was reported Lady Altham had a child. And when Colonel Pigot would have related to the Court what he heard his mother say with regard to her being godmother to Lady Altham's son it was objected to by the defendant as hearsay evidence. As to Alderman Barns, the jury are the best judges whether he was out of his senses, for every gentleman that heard him must see how sensibly he delivered his testimony. As to Major Fitzgerald, my lords, he might forget the season of the year when my lady was brought to bed; and this is not surprising, it being so long since. But a birth so well proved cannot in the least be discredited by his not remembering the particular season. Serjeant Marshall

I come next to answer why Joan Landy was not examined, on which the gentlemen of the other side have laid such stress. We offered her to the defendant's counsel, but truly they did not think proper to examine her; and the reason of their doing so appears plainly, because she has been tampered with, and that might come out upon her examination. Though Rolph and some others of the defendant's witnesses said that it was well known that Landy was with child by Lord Altham, the defendant, or others, and that Lady Altham knew it, yet the circumstances of the affair plainly show how improbable this imputation is. Landy continued three months in the house of Dunmaine after my lady came there. I believe it will hardly be imagined that Lady Altham (who was of a haughty spirit) would admit her to live so long in the house if there had been any notion of her being with child by Lord Altham.

The gentlemen of the other side have exerted themselves in endeavouring to show the improbability of Lady Altham's child being nursed abroad. This objection may very readily receive an answer that the children of noble families are very often sent abroad, for this reason, that the luxurious way of living in great houses may be of disservice to the nurse, and consequently hurt the child, so that it is judged sometimes more eligible not to have the child nursed at home. I have been informed in Court by a nobleman that the present Lord

Sergeant Marshall

Ophaly, the son and heir of the Earl of Kildare, the first peer of this kingdom, was sent abroad to be nursed, and I apprehend that such an instance is sufficient to obviate what was offered by the gentlemen as to that point. As to the meanness of Landy's house, wherein the child was nursed, the three witnesses produced by the defendant give different accounts of it. One says there was no door, but a bush; another says there was a door; one says there was no partition in the cabin; the other two witnesses say there was a partition. Mr. Elms says the partition was of sod and stone wall; but Rolph, who pretended to know it better, by his describing the figure of it on paper on his examination, said that a hurdle fixed to the [illegible]d to keep off the straw served as a kind of partition. This repugnancy of these witnesses is sufficient to destroy the credit of all of them.

I shall, my lords, proceed to make some further observations on the evidence produced by the defendant, and must remark to your lordships that if a story was to be made up without any foundation in truth, as defendant pretends, he had it more in his power to trump up a fictitious story than the plaintiff, the defendant having a country seat in the county of Wexford, near the place of the birth, whereas the lessor of the plaintiff was out of the kingdom for so many years, and destitute of friends, interest, and fortune.

As to the testimony of Rolph and Heath they contradict each other; indeed it was requisite they should agree in something, and that was that they went out of curiosity to see the child. Yet how silly must that curiosity be to see whether it was my Lord Altham's or the dog-boy's child? But the defendant, being sensible how fully the lessor of the plaintiff had proved the time of his birth, would very ingeniously endeavour to overturn it by pretending the Lady Altham was in spring, 1715, at Wexford assizes, when Mr. Walsh and Mr. Masterton were tried there for enlisting men for the service of the Pretender. However, Mr. Higginson has falsified all the defendant's witnesses, and his evidence will plainly evince that this story is framed by the defendant to serve particular purposes, and therefore the testimony of Mrs. Giffard, Mrs. Heath, and Rolph must fall to the ground. Mrs. Giffard in her evidence names those she says that went with Lord and Lady Altham to Wexford assizes. Mrs. Heath adds Mrs. Giffard's sister to the number of those persons that went. I shall humbly submit to the gentlemen of the jury if Mr. Colclough does not plainly disprove Mrs. Giffard. She swore that Lady Altham sat by Mr. Colclough the greatest part of Masterton's trial. Mr. Colclough positively swears that no lady sat by him, and gives a very good reason for his being positive in this circumstance, to wit, that he was so engaged in seeing justice

done to Mr. Masterton, who was his relation, then on trial for his life, that he would not sit by the best lady in the land. He also says that he knew Lady Altham very well, and did not see her in Court; and, my lords, if my Lady Altham had been in the Court-house numbers of persons must have known it. Mr. Kerr, a witness for the defendant, proves the day the assizes began, and tells your lordships he saw no ladies there. Mr. Masterton's trial was on Monday, the 18th of April, 1715, yet Mr. Higginson swears that on Tuesday morning, the 19th of April, the same year, he saw Lady Altham at Dunmaine big with child. Turner swears my Lord Altham went to the assizes, but that Lady Altham was not there, for that her ladyship was at home at Dunmaine House. Rolph, who is examined for the defendant, in order to prove Lady Altham at the assizes, says he attended Lord Altham there, yet did not know in what part of the town he lodged, which shows strongly he was not there. Serjeant Marshall

The defendant has produced Mr. Palliser, the elder, Mr. Aaron Lambert and his wife, and Mr. Elms, as to the reputation of the neighbourhood of Dunmaine, that Lady Altham had not a child, and they say they visited Lady Altham once a fortnight, and that her ladyship could not be brought to bed without their knowledge, &c. But the gentlemen of the jury will please to consider that they all agree in a sameness of expression in their examination, and knew nothing at all in their cross-examination, which must be attended with some suspicion. As to the credit to be given to those witnesses, I must beg leave to take notice that Mr. Palliser, the elder, seems to have lost all his memory in this affair, for on his cross-examination he did not know when he was in the barony of Forth, or when he lived in the Great Island. Mr. Lambert happens to have the same misfortune; he even forgot the time he was married, and some other circumstances. As to Mrs. Lambert, it is sufficient to name her.

Mr. Palliser, the younger, happens to be a very extraordinary witness. He says that a very few days before the separation Lord Altham had told him his intentions of parting from his wife because he had no children by her in order to oblige Lord Anglesea. It is very unlikely that if Lord Altham was so determined he would have imparted his resolutions to him; and Mr. Palliser said he believed that Lord Altham did not intend to kill him, he was so conscious of his innocence, that passes were directed by Lord Altham at his body, and that Anthony Dyer took the sword out of his lordship's hand.

It has appeared, my lords, that a coach road was made to Landy's, where the child was nursed. I submit to your lordships and the gentlemen of the jury how the defendant's witnesses contradict each other in attempting to disprove this.

Serjeant Marshall

Rolph said there was no road made; Elms said the same; but with difficulty it was extorted from Elms that there was a road made, that there was a slough thrown up at each side to make it passable, which was a short way, as he pretended, for my lord to go a-hunting. Rolph says there was a coach road made on purpose to go to the church, and to the mill, and to Mr. Palliser's and Mrs. Giffard's houses, and that Mrs. Giffard usually came that way, and not round by the bridge. Yet Mrs. Giffard said she knew no other road from her house to Dunmaine than the road over the bridge. As these evidences are inconsistent the defendant entirely fails in his defence.

The defendant's counsel insisted that the child was taken no notice of by Lady Altham, but Lutwich swears that he saw the child with her ladyship at one Wright's, in Ross, where her ladyship went to lodge after she left Mrs. Butler's. He further proves how the child was taken away by stealth. Margaret Hodges says that Lady Altham mentioned her child to her at Alderman King's in Dublin; and Mrs. Heath, thus far agreeing with Mrs. Hodges, that lodgings were taken on the Quay for Lady Altham before her ladyship went to lodge at Mr. King's, and that a pistole was given in earnest and returned, confirms strongly the testimony of Mrs. Hodges. As to Alderman King's testimony, it only amounts to this, that Lady Altham did never mention anything of her son to him. This may be easily accounted for, because Lord Altham forbade the child to be brought to his mother. Lady Altham's condition at that time is well known; she was confined to her chamber, and could receive no intelligence but from Mrs. Heath.

Lady Altham left this kingdom in September, 1724, and it has been proved by Herd, one of the defendant's witnesses, that the child was in the care of Lord Altham the August preceding that September, so there was only a month between the father's deserting him and her ladyship's going out of the kingdom. Therefore it is not extraordinary that she did not hear of her child's misfortune. But it is undeniable that the plaintiff was taken care of, and educated as the son of a nobleman, and likewise acknowledged by Lord Altham as his son and heir. Mr. Misset, a gentleman of an undoubted character, proves that the late Lord Altham mentioned to him at Kinnea that that boy (meaning Mr. Annesley) would be Earl of Anglesea. Mr. Charles Byrne swears that Lord Altham treated him at Carrickduff as his son and heir, and acknowledged as such; and this witness declares that he would have resented the plaintiff's being brought to his house if he was thought to be natural son of Lord Altham. Mr. James Cavanagh acknowledged likewise that he was treated at Carrickduff as Lord Altham's lawful

son; and I believe the defendant will not contest the veracity and character of those gentlemen. Serjeant Marshall

I must beg leave to take some notice to your lordships of the circumstances of Lady Altham to obviate what the gentlemen say as to that point, and to account for her ladyship's not endeavouring to assert the plaintiff's title. It was proved by Mrs. Heath that Lady Altham had £100 a year to live on till the death of Lord Altham; but if she happened to survive him, then she was to have nothing. Therefore after his death her ladyship was supported by the bounty of the Duke and Duchess of Buckingham, and, considering her condition and the distance of kingdom, she was incapable of asserting the plaintiff's right. Besides, the infirmities and sickness she laboured under might affect her memory, and it may be presumed strongly that she imagined he was dead.

By the limitation of the settlement under the will of 1701, Lord Altham had but a tenancy for life—the first will limited the estate to Richard, Lord Altham, for life, remainder to his issue in tail. It was undoubtedly for the benefit of Lord Altham, in point of raising money by sale of reversion, to have deserted his son, for he was then under age, and could not join. Besides, if he was dead, or put out of the way, the estate must, of course, come to the defendant, so that by the defendant's joining with his brother, the late Lord Altham, they could the easier raise money by selling such part of the estate as they thought proper. Moreover, my lords, Miss Gregory had such an ascendant over Lord Altham that she could lead him as she thought proper, and she had an interest in prevailing on his lordship to disown his son, as she assumed the title of Lady Altham, and expected, if she had children, that they might succeed to the estate. And thus to gratify an imperious mistress, that unfortunate nobleman was induced to abandon his son.

The transportation, being an act of the defendant's, speaks stronger than words, because it must establish a presumption of the plaintiff's right. No later than last Saturday we find, by the evidence of Mr. Stone, attempts have been made to disprove Purcell's testimony, which attempts have been rendered abortive, and serve only to confirm the truth of what he swore.

The names of Annesley and Hennesley are different from each other, and suppose distinct persons; and Hennesley not being mentioned in Stevenson's book is no reason that Annesley and Hennesley must be the same person, because Hennesley appears by the "Tholsel" books to have been indentured before the 25th of March, 1728; and Mr. Tighe swears Mr. Annesley did not leave his house till April, 1728. This must be a strong presumption that

Serjeant Marshall

Annesley was not the Hennesley who was indentured. Besides, the ship did not sail till the 30th of April, 1728 (as appeared by Stevenson's books), and Stevenson's list was taken just before the sailing, and several that were indentured afterwards ran away; it appearing that above one hundred were indentured and only eighty persons were in Stevenson's list. As to the imprudence of committing an evil action in the open day, we have too many instances thereof from the misconduct of several persons. My lords, if the lessor of the plaintiff had been indentured at the "Tholsel," Mr. Gonne, the town-clerk, must have known him, as he was acquainted with his father. It has appeared in proof that very strict inquiry is made at the "Tholsel" office from those that go to the plantations whether they indentured voluntarily or not. From hence it follows that the lessor of the plaintiff was secretly kidnapped and transported to America.

Mr. Giffard's testimony stands unimpeached. The defendant confessed to him the just title of the lessor of the plaintiff, and that he was his brother's son; and though he might be supposed in a passion when he expressed those words, it cannot be presumed he would make declarations of surrendering to Mr. Annesley his right unless he was conscious that Mr. Annesley was lawfully entitled thereto.

As to Joan Laffan, my lords, nothing but the force of truth could make her as consistent as she was. She has been examined a second time at the distance of three days, and re-examined over and over again the third and fourth time, and never varied in her testimony.

My lords, this being a cause of the greatest importance, and as all the acts of the defendant induce the strongest belief of the indubitable right of the lessor of the plaintiff, and must consequently support his proofs and weaken those of the defendant, I humbly hope the gentlemen of the jury will consider it well, and give a verdict agreeable to justice, which I doubt not will be for my client, the lessor of the plaintiff.

Serjeant Tisdall

Mr. Serjeant Tisdall, counsel for the lessor of the plaintiff —My lords, and you gentlemen of the jury, I am counsel of the same side with Mr. Serjeant Marshall. This is certainly a cause of the greatest consequence, and I am sure from your wise considerations it will receive its due determination. I shall first think necessary to observe that from the circumstances of the plaintiff's case, and the death of the parties, it was natural for some of the witnesses in the space of so many years to forget some things with respect to time and place. Variations of this kind must necessarily happen in a course of evidence after so long a time, but the principal fact remains true.

The matter in dispute, my lords, is attended with a very

particular misfortune on the side of the plaintiff. Mr. Annesley's father, the late Lord Altham, had no relations in the county where the lessor of the plaintiff was born, nor had his mother any relations in this kingdom, which in a great measure accounts for that circumstance that there are not people of rank or relations in the family to prove his legitimacy. The defendant is a peer of this kingdom and of England, and is in possession of a great estate near the place of the plaintiff's birth, and as most of the inhabitants are tenants and acquaintances of the defendant, and under his influence, they might not be so easily prevailed upon to give evidence here. Serjeant Heath

It has been proved that the plaintiff was transported out of this kingdom to America in an illegal and iniquitous manner when he was about fourteen years old, and having not returned till lately he must be ignorant what witnesses were living to prove his birth till he made a diligent inquiry; he must be obliged to the friendship of those who voluntarily offered themselves; and now he does all he can by offering them here in Court as evidences.

It has not been attempted to be proved by any of the defendant's evidences (except Rolph) that any improper application has been made on the plaintiff's side for evidence, but the account Rolph gives is very inconsistent. Is it probable that Mr. Mackercher, at the first sight, would offer Rolph a lieutenancy in presence of two other persons, and thereby put it in the power of Rolph to have ruined the cause of the plaintiff? Or that when Rolph refused it, as he says, he would have gone to him a second time to ask him any questions in relation to what he first proposed to him when four other persons who were strangers were present? No, my lords, no rational man could be guilty of such a piece of misconduct. If any offers were to be made they must be made to people in a lower condition than Rolph appears to be, from his own declaration, who would be ready if they met such encouragement to appear here and give their testimony. Though Mrs. Heath mentions how she has been applied to, yet she is silent as to any undue means. So that in fine Rolph was the only person pretending to be tampered with, which shows that this part of his testimony is very incredible.

I shall now, my lords, endeavour to speak to the evidences on both sides, and hope to be able to show that the plaintiff has very clearly proved his title. Eleanor Murphy and Mary Doyle agree as to a positive proof of the birth and christening. The little variations of time are of no significance. They likewise prove that Redmonds was sent for a midwife. Redmonds proves that he went for one to Ross, and, further, says that he was spoken to by Colonel Palliser in order to prevent

Serjeant Recall giving his testimony, and the Colonel owns he had some discourse with him to this purpose previous to his examination. Brown says there were bonfires and rejoicings for the birth of the child, and Scott swore that he was sent several times with messages from Mrs. Pigot to inquire about the child's health, and that it was the reputation of the country that Lady Altham had a child, which strengthens the testimony of Murphy and Doyle.

There can be no manner of doubt but that there was a coach road made, as proved by the plaintiff, for the convenience of Lady Altham's going to Landy's house, where the child was nursed. Elms at first denied the road was made, and afterwards owned it, as Mr. Serjeant Marshall has fully observed. But I must remark to your lordships that Rolph says a coach road was made before the nurse's cabin was built, and that the cabin was built a year before my lady came to Dunmaine; and he further says that the road was made on purpose for visiting Mrs. Giffard. Surely this must be false, in regard Lady Altham was not in the country for a long time after the road was made, according to Rolph's account, and there was no occasion to visit Mrs. Giffard before her ladyship came to Dunmaine, and consequently it could not be made for the convenience of visiting Mrs. Giffard. Besides, Mrs. Giffard says she always came over the bridge, in contradiction to all the other witnesses. Therefore it must be supposed that the road was made on purpose to visit the child, and the great endeavours used by the defendant to overturn the plaintiff's witnesses in this particular show his apprehension of the consequences of this circumstance.

The defendant endeavours to lay great stress on the meanness of the dress and appearance of some of the plaintiff's witnesses, but this cannot be an argument against the plaintiff's cause, because he must make use of what proofs the nature of the thing will admit, and of such witnesses as are living that could give an account of his birth, and such are those who happened to be servants at that time in the house. The little variation of the circumstance of time and place ought to have no weight. And as to Redmonds, however contemptible his appearance may be, he was a person fit enough for the errand to the midwife.

I shall next proceed to our witnesses who prove Lady Altham's pregnancy and miscarriage. Mrs. Cole gives a very credible account of the miscarriage, and though the counsel on the other side have laboured very hard to show that a child of her age could not be curious enough to inquire into a thing of this nature, yet the contrary may very well be supposed, as she probably never saw any such thing before, and therefore

it was very natural it might make an impression on her mind. A person of an advanced age might very well be imagined not to have a curiosity on such an occasion, as perhaps having seen a thing of that nature before. Could this circumstance of Mrs. Cole's testimony be intended for any particular purpose? No, my lords, it could not, because she could never dream, nor was she prophetic enough to know, that she should ever be called upon here to give her evidence. And though she and Mrs. Heath differ in their testimony about Lady Altham's going to Vice's this can be of no great consequence. I appeal to your lordships and to the jury, from the rational, distinct manner Mrs. Cole gave her evidence, whether she or Mrs. Heath deserves greater credit? Alice Bates, my lords, swears to Lady Altham's pregnancy and miscarriage at Vice's. As to the objection of the freedom used by Lord Altham with her (as she related in her testimony), we see that gentlemen and ladies very frequently admit their servant-maids to make free with them, and particularly on such occasions. Mr. Turner swears he went to Dunmaine immediately after his marriage, and as this gentleman resided so long in the family he could not mistake as to time or fact. He says Lady Altham was then pregnant. Mr. Higginson swears he saw Lady Altham with child. He is an unimpeached witness, and by the circumstances he observed in his testimony that he was bound for Lord Altham for the sum of £20; and further, that he was receiver for his lordship for part of his estate. We have the strongest reason to be convinced of the truth of his testimony. Serjeant Toler

I shall now consider the negative proofs of Lady Altham's pregnancy, and, first, I shall begin with some of the servants of the house produced by the defendant for this point. Owen Cavanagh owns that he was absent for some time from Dunmaine, and that he left the service for some time, and returned thither again. Therefore, as he did not continue constantly in the house, there could be no certainty in his evidence, because Lady Altham might be brought to bed when he was absent, whether he was in the service or not. Rolph, by all the plaintiff's witnesses, is said to leave Lord Altham's service before the birth of the child, and as his testimony, with respect to the coach road, appears to be false, his whole evidence ought to be discredited. Anthony Dyer, my lords, contradicts all the defendant's witnesses, for he says there was no child at the house of Dunmaine after the separation. Therefore he ought not to be believed.

Your lordships and the gentlemen of the jury will please to consider that the proofs on the plaintiff's side are positive evidence—Murphy, Doyle, MacCormick, Laffan, and Redmond, who were servants in the house. Mrs. Cole and Mrs. Briscoe,

Serjeant Tisdall

Alice Bates, Major Fitzgerald, Mr. Turner, and Mr. Higginson, Scott, and Brooks, these are all entirely opposite, with respect to the pregnancy and miscarriage, to the other servants (the defendant's witnesses), Heath, Dyer, Rolph, Neif, Cavanagh. But as the evidence on behalf of the plaintiff is positive, it must be considered in a stronger light, and outweigh the defendant's evidence as to the pregnancy and birth. Therefore the superstructure which the defendant builds on such a foundation must consequently fall.

I shall now take notice of those witnesses on the part of the defendant who say that it was not reputed in the country that Lady Altham had a child. The first person examined to this point was Colonel Loftus. This gentleman's testimony is no more than that he lived about seven or eight miles from Dunmaine, and had no acquaintance with Lord or Lady Altham, and knew nothing of the matter in question. So that it is plain the intention of producing him was only to give a sort of dignity to the cause. Colonel Palliser is the next evidence for the defendant in this respect. He says he never was absent from Dunmaine above a week together, and afterwards owns he was was absent above a month at one time. I fear he is too ready and forward a witness. In one particular he seemed an agent in the cause by desiring Redmonds not to appear on pretence that his evidence could signify nothing; and as he has shown a good deal of inclination herein in favour of the defendant, I can't help saying it throws some suspicion on his evidence. Mr. Palliser, the younger, said he believed his father visited at Dunmaine, but that he did not see Lady Altham often at his father's house. He seems to have too much intimacy in that family from his own account. He tells you that Lord Altham mentioned to him his intention of turning away his lady, yet till that time his lordship never spoke to him of his family affairs. This really appears very strange and improbable, and if one fact is not true it must discredit all the rest of his testimony. He is contradicted by Joan Laffan, who swears that he had Lord Altham's cap on that morning of the separation; he said that he had his hat and wig on; but when they were both on the table here together he could not recollect he had a cap on, or if he changed his hat and wig for a cap. It is somewhat strange that Mr. Palliser should forget the most material passage of his life, for from the circumstances of that affair and the treatment he met with he must remember the particulars of that affair to his last day. The very particular breakfast he had Joan Laffan remembered when she was called upon, and he acknowledged, as she said, that it was some mulled wine, so that in the minutest circumstance she was found consistent. Your lordships will please to consider what powerful influence resentment has on

the minds of men; and it is not easily removed, and sometimes a strong resentment against the father is continued to the son. How much Mr. Palliser has been incensed against Lord Altham has plainly appeared.

Sentence reversed

Mr. Aaron Lambert gives a very loose kind of testimony, and when a character was required of Colonel Loftus, with respect to Mrs. Lambert, your lordships have seen how cautious he was of encouraging any credit to be given to her oath. As to Mrs. Giffard, she pretends to remember everything that happened relative to the assizes at Wexford, yet she forgot her sister, who went in company with her and Lady Altham thither, as is evident from Mrs. Heath's testimony. And as to the circumstance of the assizes, the testimony of Mr. Colclough, Mr. Turner, and Mr. Higginson, for the plaintiff, are diametrically opposite to the testimony of Mrs. Giffard, Rolph, and Heath for the defendant. Rolph, I must remark, was never at Lord Altham's lodgings. Mrs. Heath adds a new person to the company. I must submit to the gentlemen of the jury whether the plaintiff's or the defendant's witnesses are most consistent, and which of them give the most probable evidence.

The next thing I shall trouble your lordships with is to make some remarks . . some declarations made by the late Lord Altham, that he had no legitimate issue, whereon the gentlemen of the other side strongly relied. Colonel Harman was produced as a witness for the defendant to this purpose, but truly he could not tell whether the conversation he had with Lord Altham was before or after the death of Queen Anne, therefore he is not certain in his evidence herein, and could not fix any particular time. Father Downes, another of the defendant's evidence, could not likewise fix any particular time in his testimony. Colonel Wall says that it was in 1725 Lord Altham wished he had a lawful s n. Mr. Wall said that it was the interest of my lord to have a son on the opinion of the wills and codicils, whereas the point of law is quite contrary. Colonel Beckett's testimony, my lords, is manifestly inconsistent. He says he dined with Lord Altham in the summer-house at Mr. Vice's, and that it was not above a year from the time his lordship lodged at Mr. Vice's till he came to live at Inchicore. Now, my lords, it is evident in proof that Mr. Beckett must have mistaken himself for several years, for that my lord lived in Dunmaine, Kinnea, Carrickduff, in Dublin, and other places for a good many years before he went to live at Inchicore. As to Mr. Medlicott, it is very odd that Lord Altham should make the decl ration which he mentions, that as he had no son of his own he did not care if the estate went to the devil. However, this declaration may be made consistent, with some little variation, by only substituting the

Serjeant Wood

word "if" instead of "as," which would make it, "If he had no son of his own," then it would be a hypothetical expression, and probably Mr. Medlicott might have forgot the identical words in so long a time. These last witnesses were all that were examined by the defendant as to the point of the declarations.

Now, I shall beg leave to mention what the witnesses on behalf of the lessor of the plaintiff swear as to this point. Colonel Pigot says it was generally reported that Lady Altham was brought to bed of a son about twenty-eight years ago, and from his intimacy with that family he could not be mistaken. Alderman Barns said that Lord Altham mentioned to him that Lady Altham had a son about the time of the birth of the lessor of the plaintiff, and he believes he was told so by five hundred people in Ross. Can it be imagined that his lordship would make such declarations with a view of imposing a child on the public in prejudice to his brother and the remainder men of the family if he had not a son? Landy's child was notoriously known and admitted to be a bastard, and it was not in the power of Lord Altham to make him his legitimate son. But Alderman Barns's testimony is confirmed by Lord Mount Alexander, from Lord Altham's positive declaration, "By God, Groves, I have a child by my wife; that will make my brother's nose swell." The honour of this noble lord is sufficient to establish this as an undeniable truth. It is true Lord Mount Alexander does not fix a time for this declaration, but the nature of the thing speaks it, that it must be after the birth of the child, and it cannot be supposed Lord Altham would be so absurd as to declare he had a child if he had not a son. As these evidences on the part of the plaintiff are positive, and all the defendant's proofs are negative, the most favourable construction that can be made for them is that they are ignorant of a fact so notorious to the rest of the country.

That there may be no part of the chain of our evidence broken, we have shown what care has been taken of the child; we have proved Joan Landy to be his nurse and Joan Laffan his dry-nurse. Laffan was called up and narrowly examined three or four different times, notwithstanding which she was always found consistent with herself, and all circumstances of her testimony were proved fully by her. The whole force of the defendant's witnesses was turned to destroy the character of this woman, but their testimony was general, and there was no fact proved to destroy her evidence, therefore what they swore did not affect her so as to render her a bad witness. She said she came to Dunmaine in harvest 1715, and lived a year in the family before the child was put under her care, which was in harvest 1713, six months before the separation,

which was in the beginning of the year 1717, and that tallies Serjeant with the time that she was appointed to take care of the child, and answers Mr. Prime Serjeant's objection as to that point. Dominick Farrell, my lords, strengthens the testimony of Laffan. He is positive that he saw the child in the house of Dunmaine in the care of his mother, the Lady Altham, before the separation.

The counsel for the defendant finding that we had proved the lessor of the plaintiff to be the son of Lord Altham by his lady, have endeavoured as much as they could to overturn this evidence by pretending he was the son of Joan Landy; but I hope we have satisfied your lordships and the gentlemen of the jury that their testimony in this respect is very consistent. William Elms has been produced, who swore that Joan Landy's child was brought home to Dunmaine after the separation. Martin Neif and William Knowles swear likewise, that the child was brought home after the separation; but Anthony Dyer contradicts these witnesses. He says he stayed three-quarters of a year after the separation, came up to Parliament with Lord Altham, and never saw a child at Dunmaine. Aaron Lambert said he never saw a child in the house, and when some of the witnesses were asked, was there a child in the house or was there not? then comes the evasion. If there was a child in the house it was imputed to the coachman, a circumstance which bespoke perjury, because of their endeavouring to ward off that blow. So that these witnesses clashing with the rest must throw an imputation on their testimony.

Elizabeth Molloy says she was applied to in order to dry-nurse Joan Landy's child, but could not fix a time; and further said she would dry-nurse children of ten years old, which is a thing very uncommon. Ann Caulfield said she saw Joan Landy's child at nurse, and that she saw Lord Altham after the separation call to see a boy at Furlong's School; yet when she was cross-examined whether it was the same child she saw at school that she saw at nurse, she said she could not take upon herself to swear that for the whole world. I have troubled your lordships in mentioning those witnesses which the defendant produced to show how uncertain they are in their evidence, and therefore that there can be no dependence upon them.

But, my lords, let the gentlemen of the other side say there was or there was not a child at the house of Dunmaine. We have proved that Lady Altham's child was there, and Redmonds and Breen, who were examined for the plaintiff, swear Joan Landy's child was dead and buried several years ago, which entirely overturns the pretence of the defendant that the lessor of plaintiff is Landy's child. It has been proved to your lordships that Lord Altham treated the lessor of the

Serjeant Tisdall

plaintiff as his lawful son and heir. The testimony of Mr. Misset, and the conversation he had with Lord Altham at Kinnea, in the county of Kildare, prove this beyond all contradiction; and Mrs. Annesley supports his testimony by the account she gives of her and her brother's drinking the child's health in Lord Altham's presence when his lordship lived at Kinnea. Surely such conversation would not be introduced in company of a relation of the family if the child was intended to be imposed on them. She further says the legitimacy of the plaintiff was never doubted of in the country, and as she was allied to the family her evidence must be of great weight to overturn the evidence of Mr. Medlicott. The evidence of Mr. Charles Byrne and James Cavanagh proves to demonstration that the child was looked upon at Carrickduff as the legitimate son of Lord Altham. Therefore, how can your lordships or the gentlemen of the jury believe the testimony of Martin Neif, who said that the boy was reputed a bastard, and had too much of the blood of the Landys in him? Consequently Neif's testimony must be rejected. So that, I say, by adding all the plaintiff's proofs together, there cannot be the least colour to doubt the legitimacy of the plaintiff.

Both Mr. Byrne and Plunkett say that he was looked upon in Proper Lane to be the legitimate son of Lord Altham, and the influence Miss Gregory had over my lord (when he lived there) is likewise proved by Herd, and it is natural to suppose she suggested things to Lord Altham to his disadvantage. Mr. Plunkett tells your lordships he interceded with Lord Altham for him when complaints were made against the child by Miss Gregory, therefore it is easy to be believed that it was on her account he afterwards became totally neglected. As to the testimony of Mrs. Mullen, who says that the child made answer to her at the funeral of the late Lord Altham that he was Joan Landy's son, there cannot be the least reliance on her credit, because the child always asserted his legitimacy, and Mr. Hawkins, king-at-arms, refused enrolling the defendant on account of the behaviour of the child, and his crying at the funeral. Mr. Bush and Mr. Tighe and Purcell say he convinced them of his legitimacy.

As to Mrs. Heath, she comes from a distant country. What inducement she might have to give evidence against Mr. Annesley must be only known to herself. She might have imposed on Lady Altham, as it appears that it was from her only that Lady Altham received information to neglect the child, and she may still continue averse to him.

As to what is observed by the gentlemen of the other side, to show the improbability of Reilly's, the servant, evidence, from the short space of time of going from George's Quay to

Inchicore and coming back to the quay, that was an affair that required expedition, he must be supposed to make all the despatch he could. And as to what Reilly said, that the defendant was on the quay when he was sent for the guinea, and afterwards in an hour and a half found him there at his return, this is not repugnant to what Byrne says, that the boy was put into a boat about a quarter of an hour after he came to the quay, for it may be very well presumed that the defendant might be on the quay when he sent Reilly for the guinea, in order to fix a boat to carry the boy to the ship, and after that go back to Ormond Market to Jones's, and return to the quay at the time Reilly brought him the guinea. But, I believe, the gentlemen of the other side will not deny that the transportation is proved to a demonstration, which shows the violent resentment the defendant conceived against Mr. Annesley, the lessor of the plaintiff, and the evil mind of the defendant, still implacable, so as even to lay out £800 to prosecute him in order to take away his life to prevent him from ever enjoying his birthright, which the defendant has unjustly possessed. Therefore I say to every impartial man this must be the strongest argument of the defendant's consciousness of the lessor of the plaintiff's unquestionable right. And I make no doubt but the gentlemen of the jury will be of the same opinion, and consider this affair without any regard to any other person not before the Court at present, and give a verdict for Mr. Annesley, the lessor of the plaintiff. Serjeant Tisdall

Mr. Philip Walsh, counsel for the lessor of the plaintiff—My lords, and you gentlemen of the jury, it is not to be expected that the lessor of the plaintiff, from the many disadvantages he labours under, can lay such full proofs of his birth before the jury, or fix his title as well as if he had been always in the kingdom. On the other hand, the defendant has had full time to prepare his witnesses, as he was alarmed by the account of my client's returning from the West Indies and intending to claim the Anglesea estate. As this point has been so well discussed by the plaintiff's counsel who spoke before me, I shall not take up much of your lordships' or the jury's time. Mr. Walsh

Your lordships will please to consider that the defendant, as administrator to Arthur, late Lord Altham, has got all the papers in his hands, which could give further light into this affair; therefore the strongest indulgence is to be shown to all the evidence given at this distance of time on the part of the lessor of the plaintiff. The only point in question is the legitimacy of the lessor of the plaintiff, which he has proved by positive evidence, and thereby wiped off all that cloud of infamy that the defendant would endeavour to throw on him.

Mr. Walsh I shall now beg leave to make a few observations on some of the defendant's evidence and on the declarations of the defendant, which show plainly his evil disposition towards the lessor of the plaintiff. First, I would remark, with respect to Mrs. Heath, because she is the defendant's principal witness, and if she is overturned all the rest must fall to the ground. Mrs. Heath agrees to the cause of the miscarriage (which was the breaking of the saucers), but not to the effect. She likewise confirms MacCormick's testimony that Lucas, the midwife, was intended to be sent for. She says my Lady Altham never kept her room one day, which is contradicted by Mr. Lambert. What she and Mrs. Giffard say as to the Wexford assizes is contradicted by Mr. Colclough.

Colonel Palliser owns he was often laid up with the gout, and often absent from his house in the Great Island, consequently could not be certain what happened at Dunmaine. Mr. Palliser, his son, induces a suspicion of bearing a resentment in his mind from the marks of infamy he received, which, if it was in a judicial way, he could not be believed in any Court of law. Herd's testimony in relation to Proper Lane is outweighed by the evidence of Plunkett and both the Byrnes. He further swears that Lord Altham declared he would not for £500 the child should know that Joan Landy was his mother. Neif swears that when my lord corrected him he always told him of his mother, Joan Landy. He also swears the child went by the name of James Landy. It is somewhat extraordinary that my lord should upbraid the boy with his mother, Joan Landy, and yet declare that he would not for £500 that the boy should know that Joan Landy was his mother.

Furlong is very ridiculous in his testimony, and Downes is discredited by Ryan. Beckett is a most uncertain witness in his account about Vice's and Inchicore. Colonel Harman is likewise uncertain. Mr. Medlicott's account is somewhat extraordinary, for if Lord Altham made use of those declarations he mentioned a long time ago, yet he says he never reflected on them till the last Curragh races. Napper could not know anything of the point in question, because he owns the late Lord Anglesea directed him never to go to Dunmaine.

As the plaintiff's counsel have observed so fully on our witnesses, I shall beg leave to offer a few thoughts to the consideration of the jury. Mr. Higginson wanted not the year of the eclipse, or the time of the Pretender's men being tried at the assizes of Wexford. He produces his book to put that matter out of dispute. The testimony of Colonel Pigot, of the reputation of the country, should have very great weight, and confirms the positive testimony of Scott of his being sent on messages from Mrs. Pigot concerning the child. It is not common to send how-do-you's to

a bastard son. Lord Mount Alexander mentions the particular account of Lady Altham's having a child. The veracity of these witnesses is unquestionable. Hodge's testimony is confirmed by Mrs. Heath, which must have weight. Lutwich is not attacked in his character. Mr. Walsh

On the whole, your lordships will please to consider the testimony of the plaintiff's witnesses is attended with such consistency of time and place that it must outweigh the wandering and uncertain evidence of the defendant's witnesses. Is it reasonable that Lord Altham should set up a bastard son for his legitimate child, there being at the same time a probability of his having lawful issue?

I must now beg leave to take notice of some declarations of the defendant, which plainly point out his malice and resentment towards the lessor of the plaintiff. Joan Laffan has proved that the Christmas Eve after the separation the defendant was at Dunmaine House, and, not seeing the child, said to the witness, where is Jemmy? or, where is my brother's child? How did his mother behave at parting with him? Laffan answered that Lady Altham had requested very earnestly to have the child with her, whereupon the defendant made use of an extraordinary oath, that he would not have his brother keep any of the breed, but pack them both to the d——l. The late Lord Altham's character and circumstances are to be considered by the jury, and Miss Gregory's influence by some sort of a sham marriage (if I am rightly instructed) may account for his lordship's maltreatment of the child, and she might persuade him into a notion that, though the child was the son of Lady Altham, yet that he was not begotten by him. There was a further reason, that my lord being tenant for life might give out that he had no son, in order the more easily to sell reversions by his brother's joining with him. This might be more easily effected as the child had no relations or friends, but those that were aiming at his title and honour, and who imagined that if he who was a bar to their interest and ambition was removed they then might be sure of making every advantage they long thirsted after.

Though the plaintiff was young at the time of his transportation, it has appeared in proof that he did all that was in his power to let the world know that he was the legitimate son and heir of the late Lord Altham. Did he not even at his father's funeral lament his death in the most piteous manner and assert his title? And was not Mr. Hawkins, the king at arms, so moved thereby that he refused enrolling the defendant as Lord Altham in the list of peers? This induced the defendant to show the strongest resentment, which he did, threatening to transport him as an impostor and a vagabond, assigning the scandalous pretence of his having

Mr. Walsh stolen a silver spoon; and then, in an unnatural and illegal manner, he makes an attempt on the son of his brother, kidnaps him in his tender years, four months after his father's death, and afterwards, with a most unaccountable indifference, tells Mr. Ash, his attorney (as Mr. Ash declared on his examination) only that the boy was gone. It is pretty remarkable that the gentlemen on the other side did not think it proper to cross-examine Mr. Ash as to that particular.

Your lordships will please to consider that Lady Altham was in a dead palsy before she left Ireland, which impaired her understanding, and that she continued so till death, and was thereby confined to her room. From this unhappy condition she might not know when Lord Altham died. And if she did, as she was in a state of distress and dependence, she was in no condition to assert the right and support the interest of her son.

I should, my lords, be glad to throw a veil over the defendant's misconduct in an affair of a deeper dye, but in justice to my client I cannot help mentioning to your lordships and the gentlemen of the jury what illegal means the defendant made use of to cause the lessor of the plaintiff to be prosecuted with the utmost severity, and to aim at his life in so extraordinary a manner. It appears that the defendant was at first touched with the qualms of a troubled mind, and determined to surrender to the lessor of the plaintiff his right and title if he was allowed £3000 a year to live on in France. To qualify him for this scheme of life he was instructed by a French master in the language of that country. This disposition to do justice was not of long continuance. An unfortunate accident subjected Mr. Annesley to a prosecution, by an unhappy chance of shooting a man. Upon this all remorse is dissipated, the late kind intentions vanish, the defendant values not if it cost him £10,000 so he could have the plaintiff hanged, and for that purpose he makes no difficulty to expend £800. When he is disappointed in this another expedient must be found. When the plaintiff's life is out of his reach, his character, his birth is to be impeached, and he is to be deemed the spurious offspring of a poor kitchen wench. It is plain to every man that has heard anything of this affair that nothing but the strongest conviction of the plaintiff's right could have spirited the defendant up to such a complication of iniquity.

It is true the defendant's counsel have varnished over their case with a very glaring show with a view of influencing the gentlemen of the jury, but they are of that honour and integrity that they will weigh the affair with the justest nicety. And now I shall conclude with the words in the gospel which

the defendant has adopted to himself, "This is the heir, come let us kill him, that the inheritance may be ours." But thank the Almighty, the over-ruling hand of Providence has protected the lessor of the plaintiff, and I hope the jurors will think he is entitled to a verdict. Mr. Walsh

Here ended the arguments of counsel for both parties, about ten o'clock on Wednesday night, and the Court by the like consent as usual adjourned to twelve o'clock next day.

Friday, 25th November, 1743.

The Court being met according to adjournment, and the jury having appeared as usual, the Lord Chief Baron Bowes summed up the evidence in the following charge:—

Lord Chief Baron—Gentlemen of the jury, we are now come to the last period of this very important trial, and after having attended to a longer evidence than ever was known upon a trial at law you, gentlemen, by your verdict must determine a question of as great consequence both as to property and title as ever came before a jury. Lord Chief Baron

I did apprehend when this trial began that it would run out to a great length, and therefore apprised you of what I thought must be the consequence, that the Court would not be able minutely to sum up the evidence upon this as upon like occasions, and therefore recommended it to you to make and enter your own observations as the evidence should be laid before you. But when I consider your exemplary behaviour during the course of this long trial, the attention you have given, and the desire you have expressed to do justice, I think it incumbent upon the Court, as far as they can, to be aiding and assisting to you in this your search after truth. To this end I shall, though very briefly and imperfectly, lay before you what hath occurred to me, which I shall do in this method. I shall endeavour by way of narrative to collect the facts that have been sworn to on both sides; I shall next mention the objections, as far as I have taken them, that have been made to the credit of the respective witnesses, together with some observations that may assist you in judging how far those objections ought to weigh with you. And as it will appear in the course of this evidence that there have been inconsistencies, and, in the most material facts, direct contradictions, I shall therefore take notice of those circumstances attending this case

Lord Chief Baron

which may throw a probability or improbability upon the testimony you have heard.

The action to be tried is an ejectment brought for lands in the county of Meath, and by the admission of the counsel for the defendant the plaintiff's title is brought to a single question, whether the lessor, Mr. James Annesley, be the legitimate issue of Arthur, late Lord Altham? It is admitted on both sides that the plaintiff and defendant claim the lands in question under the will of James, Earl of Anglesea, and that by such will the limitation to the heirs male of the body of Arthur, late Lord Altham, is prior to the remainder limited to the defendant; and, therefore, if plaintiff can prove that he is the legitimate issue of Arthur, late Lord Altham, a verdict must be found for the lessor of the plaintiff; but if he fail then there is an undoubted title in the defendant, being the person next in remainder under the will of James, Earl of Anglesea, and a verdict must be found for him.

Gentlemen, the question being a mere matter of fact, the plaintiff's counsel have proceeded to lay their evidence before you in the following manner:—They have given evidence to induce a probability that Mary, the wife of Arthur, late Lord Altham, might have had a child, and that, by examining Mrs. Dorothy Briscoe and Mrs. Henrietta Cole, alias Briscoe, to show that there was a reconciliation between the Lord and Lady Altham some time in the year 1713; that they came together and cohabited at the house of their father in Bride Street, from whence they went to one Mrs. Vice's in Essex Street, and from thence to Dunmaine; and there another circumstance arises, which is that Mrs. Cole and her mother, being invited to Dunmaine, went thither, and while they were there, upon an accident, which has been so often repeated that I shall not go into the particulars of it, Lady Altham was frighted, and in consequence of that fright miscarried; and the same witness, Mrs. Cole, swears that she saw an abortion. They have also produced Catharine MacCormick to show a second miscarriage, in the same summer with that mentioned by Mrs. Cole. The circumstances of that likewise have been so often repeated that I only mention the fact. Having done this, the plaintiff proceeded to show an actual pregnancy in Mary, Lady Altham. The evidence for this was Alice Bates, the servant of Mrs. Briscoe, who was admitted to intimacy with Lady Altham, and to whom it was told by Lord Altham, and acknowledged by Lady Altham; and who further swears the pregnancy was such that she did observe it, and by laying her hand upon the belly of Lady Altham, she took upon her to say that Lady Altham was big with child. I do not as I go along take notice of the objections to the

respective witnesses, intending to consider them together. In the next place, they have endeavoured to prove circumstances preparatory to the delivery of Lady Altham. Dennis Redmonds tells you that he was sent for the midwife, and Thomas Brooks that he was sent for as a surgeon to let her blood at the time of her labour; and Dennis Redmonds and Philip Breen both speak to their observing that Lady Altham was pregnant before this time And, gentlemen, it did appear that these two were servants about the house, though in a very low station; the one, I think, a helper in the garden, the other one in the stables. Lord Chief Baron

The next period is the actual delivery, and for that they have produced two positive witnesses—the one Mary Doyle, a servant in the family; the other Eleanor Murphy, who calls herself a chambermaid. Both these swear they were in the room at the time of the delivery, and as far as their testimony shall avail are positive witnesses to the fact. The next are the circumstances consequent upon the delivery, that were evidences of it. The first is spoken of by Breen and one or two more, and that is the rejoicings that were made upon the birth of this heir. The next was the christening, which is sworn to by the two maids that I mentioned before, who also swear that Mr. Colclough and Mr. Cliff were godfathers, Mrs Pigot godmother, and that Mr. Lloyd was the clergyman that officiated in the christening of this child. The next is Christopher Brown, who was a servant attending upon one Mr. Anthony Cliff, not the Cliff that was the godfather, but an invited guest, and he speaks to being there at that time and attending his master at the table at the entertainment that was made on the occasion. John Scott, a servant, I think, of Mr. Pigot's, he speaks to a subsequent time after the delivery, and says that after his return with his master from England, he was sent a dozen times, as he has sworn, to this house with messages and compliments to the lady, and to know how the child did.

Gentlemen, it will be material for you to observe that the birth to which this evidence has been applied has been fixed by the witnesses, and admitted by the plaintiff's counsel, to have happened in the beginning of summer, 1715, which the witnesses have also explained to be about the month of May There were two witnesses more proper for me to take notice of, but I shall not give you their evidence by way of testimony because they seem to differ from all the rest. The one was that of Charles MacCarthy, who was brought to prove the pregnancy of Lady Altham, and something further, but he set out from a period of time so different from the other witnesses that the counsel for the plaintiff did not think

Lord Chief Baron

proper to proceed in the examination of him, nor have the counsel for the defendant made any use of him. The next I shall lay aside is Major Fitzgerald, whose evidence was to the declaration of Lord Altham, the day my lady was in labour, and the invitation he had to go and tap the groaning drink, and his excuse for not going, as it was an improper time; the invitation he had to go the next day; that he went, dined there, but did not lie there; that the child was brought down to him, and that he gave the nurse half a guinea; but then he fixes this in harvest, and therefore no advantage has been taken of that examination by the plaintiff. The defendant, indeed, has made use of it, which I shall take notice of in the objections.

The next evidence, gentlemen, has been to show the dispositions that were made relating to the child thus brought into the world; and, indeed, I should have mentioned before the evidence of Matthew Furlong, who applied for having his wife employed as nurse to that child. But, gentlemen, the same evidence for the plaintiff that swore to the christening, the same evidence that were about the house, and present at the birth, have gone further, and told you that one Joan Landy was appointed the nurse for this child, and they have all of them given this account of Joan Landy, that she was a person unmarried, that was with child, and supposed to be so by Lord Altham, that was turned away, as some say, upon my lady's coming down; as others say, before my lady came into that country—this person was chosen to be the nurse. She had a place of residence, the cabin that was built by her father, a quarter of a mile from the house of Dunmaine, which, as the witnesses for the plaintiff tell you, was fitted up upon the occasion of receiving her and this child. Laffan has told you that a room was added; others that the cabin was white-washed and beautified, but speak not of the room; but all agree that this nurse had the child there, and that for the convenience of visiting this child a road for the coach was made from Dunmaine House to this place. They tell you that the child remained with her till Joan Laffan comes into play as dry-nurse. And Joan Laffan says she came into the family when the child was three or four months old, and she has fixed her coming to harvest after the King came to the Crown, and that it was put into her care about three months before the separation of Lord and Lady Altham, and continued in her care so long as it continued at Dunmaine, and that the child was carried from her to Kinnea, in the county of Kildare, and that it was about three or four years old at the time it went to Kinnea. They have introduced as evidence the declarations of Lord and Lady Altham, in respect to Lady Altham's having a child, and in respect to Lord Altham's acknowledging that

child. The earliest in point of time is that of Alderman Barns of Kilkenny, who says that it was in the beginning of the summer, and, by his account, not long after the birth. He tells you the occasion of his going to Ross, and that there he met with Lord Altham; that my lord took him into an upper room, and disclosed his mind to him by telling him, "Tom, I will tell you good news; I have a son by Moll Sheffield"; that he went next day to my lord's house, but that he did not see the child, nor did he hear either my lord or lady speak of it whilst he was there; but at last did say that he believed the child's health might be drank at the table. The next witness that I shall mention upon this head was Edward Lutwich, and he speaks to the seeing of a child at Ross, for whom my Lady Altham had bespoke two pair of shoes which he was to make, and when he brought them home he inquired for the young lord, and they told him he was gone back to Dunmaine, upon which Lady Altham broke out into this exclamation, "It had been better for me to have been the wife of the poorest tradesman in Ross than my Lord Altham's, for then I could see my child every day, but now I can see him but by stealth." Gentlemen, the witnesses for the plaintiff that were in the house, and conversant in the family, tell you that my lord did always acknowledge this child to be his lawful son; that this child was shown as such to the persons that came to the house to visit, and some tell you that they often saw the child in or about the house. Lord Chief Baron

I mentioned, gentlemen, the child's being removed to Kinnea, in the county of Kildare, and this was after the separation of Lady Altham from my lord. When the child was brought to Kinnea they have gone on by evidence to show you that there he was treated as the son of my lord by Lady Altham. For this they have produced Mr. Misset, who tells you that there was a child that he took to be about six years old; that he went to a school in the neighbourhood, and was considered as the child of Lord Altham; that it was called the young lord; that it was sent to school with a servant, and that he remembers it particularly by an open lace upon his hat, which he believes was the first and last that had ever been at that school. Whilst he was at Kinnea, as that witness says, the child was treated by my lord as his son, and Mrs. Annesley, a relation of the family, who lives in the neighbourhood of Kinnea, tells you that her brother, Colonel Geoffrey Paul, a gentleman well known to most persons here, used to visit my lord, and my lord to visit him, and that her brother used at table to drink the boy's health as my lord's son; and says that she was sure, from the knowledge she had of her brother, that if he had suspected that he was the illegitimate son of Lord Altham, he would not have done him the honour to have

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drank his health, and that she never heard he was the illegitimate son till of late that he has been called so on account of this present dispute.

The next place the child was carried to was Carrickduff, in the county of Carlow, and there you have had several witnesses to prove him the legitimate son, viz., two Cavanaghs, James Dempsey, and Mr. Charles Byrne, who all swear to this child's being there acknowledged as my lord's lawful son, and that they had no doubt upon them at that period of time concerning his being so, and it appears that Dempsey was taken in to teach the child, and afterwards kept school, where the child was constantly sent.

From hence they have carried him to Dublin, to my Lord Altham's house in Cross Lane, and here Catherine O'Neill, who was the person that brought him, gives you an account of the identity of the person, and likewise of his being acknowledged as the son of Lord Altham. And Nicholas Duffe, who kept a public-house, and was a chairman in this town, who was frequently with my lord (and I think I may, once for all, observe that this unhappy nobleman did not distinguish his company as became one of his rank and quality), tells you that my lord has mentioned this boy to him as one that would one day be Lord Altham, and another time in discourse told him he would be Earl of Anglesea. From Cross Lane (there is something mentioned of Stephen's Green, but I could not collect at what period of time he was there), the next place he is removed to with certainty is Frapper Lane, and there he is some time with his father, is put to school to one Garth, and is known to several people in that neighbourhood. To this you have the evidence of the two Byrnes and Matthew Plunkett, who swear that he was treated as the son of Lord Altham, though the care of him seems to lessen at that place, for in Cross Lane you hear of Miss Gregory, and more of her in Frapper Lane, and to her they have imputed the neglect shown to this son. From hence my lord moves to Inchicore, about the month of August, 1724, at which time the child, then about nine years of age, was left by his father. The evidence speak of his being sent immediately to the house of one Mrs. Cooper. Here the evidence begins to be less connected than before, but I shall mention it as given. Michael Waldron and Dunn say he was put to school to the said Dunn, who also swears to the person, and that he was put to school by one Cavanagh, a dancing master; that he afterwards saw Lord Altham at Cavanagh's, and that Lord Altham promised to pay him for his care of him. It was before this period of time that Byrne, junior, speaks of his coming to him, and the care he took of his schoolfellow, and the destitute condition he was then in. After this the first account that I

think is given of him is that of Mr. Amos Bush, who speaks of him as a boy loitering about the college, who got his subsistence by running of errands by the name of a scull; that, moved by his story, he was taken in by the humanity of this young gentleman, and that he had intentions to do for him if his grandfather would have permitted him to keep the lad. The next account we have of him is from Farrell. He tells you that he received him for a little while into his house, and that at the request of his father, and gives an account how he handed him over to Purcell. And Purcell tells you the care he and his wife took of him, and that they both considered him as the lawful son of Lord Altham. The boy left Purcell's ungratefully after the treatment he met with there, and the next news of him was at the house of Mr. Tighe, taken in by his son. This in point of time must have been soon after the death of Lord Altham, which happened in November, 1727, and in the February following this boy, about thirteen years of age, was missing, without any previous quarrel, and, as the witness soon after heard, was sent to the West Indies. Lord Chief Baron

Gentlemen, the plaintiff, after this, thought it necessary to give some evidence to account how a child that had been acknowledged by the father as his lawful son came to be treated in this manner, and you will observe that one of the witnesses, Plunkett, says that in Frapper Lane Miss Gregory lived with Lord Altham as a mistress, that she complained of this boy, and that he was corrected. Indeed, he does say that the boy owned the fault that he was charged with, and a witness produced for the defendant, Arthur Herd, tells you what the offences were and the immoderate correction that was given to this boy. And other witnesses have told you that my lord, Miss Gregory, and the boy did not agree, and that Lord Altham could have no peace whilst the boy was in the house.

Gentlemen, the next fact that the counsel for the plaintiff have thought proper to apply their evidence to has been to show that this boy, at the time he was taken from Mr. Tighe's, was sent out of the kingdom by the procurement of the now defendant, and that by force, about five months after Lord Altham's death. He, as has been said, died in November, 1727, and the boy was taken away the February following. And, gentlemen, as this seems to be a controverted fact, I shall mention the evidence particularly. The first account is that which Purcell gives, that after the child had the small-pox the present defendant came to his house inquiring after this boy; that he there called him the son of Lord Altham, his brother; that the boy cried, and said he was afraid of his uncle, Captain Annesley; and that Captain Annesley told

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Purcell he would speak to my lord and induce him to make him a handsome consideration for his care of the child. Some time after this, and after my Lord Altham's death, the boy came to Purcell and told him his mistress had sent him, for that man had come to his house from his uncle desiring him to go to the house of one Jones in the market, and that she desired Mr. Purcell to go along with him. He tells you that he went thither, and that he met this Captain Annesley there, and the expressions that were made use of by him in order to take away this boy; and he tells you that he rescued and carried home the boy. The next account that they give you is by one Mark Byrne, a constable at that time, who tells you that he was applied to by one John Donnelly, who told him that he had a job, for which he was to have a guinea, which was to set this boy, and bring him to Lord Altham; that accordingly they carried him to the house of this same Jones; that Lord Altham was there; that he accused him of stealing a silver spoon, and ordered them to take away the thieving son of a whore; that accordingly they took him away, and in carrying him to George's Quay, as they were directed, that there was a crowd gathered; that the boy cried; that they put him in a hackney coach, which they met near Essex Bridge, and carried him to the place appointed on George's Quay; that my lord followed on foot; and there he tells you that he saw one Reilly, a servant of Lord Altham's, and that my lord went into the boat with Reilly, the boy, and Donnelly; that they went off, and that he saw them go to the end of the Wall. The next person produced was Reilly, and he agrees in the material circumstances, which were that he saw this boy on George's Quay, that he went into the boat with my lord and the boy, and that my lord and the boy went on board the ship; that the boy was left behind in the ship, and by the time the boat returned it was night. Gentlemen, there is, to be sure, a difficulty to reconcile the testimony of this Reilly, but I shall speak to that when I speak to the objections made to the witnesses.

The next evidence they produced on this head was to show that a ship called the "James," of Dublin, Thomas Hendry, master, sailed over the bar of Dublin the 30th of April, 1728. The ship was entered in the Custom House book the 18th, and the evidence afterwards show that it sailed the 30th. Mr. Babe, the proper officer, produced the book, and there this entry did appear, with this addition, that the entry was made by Mr. Stevenson, a merchant in this town. The next step they took was to show from the books of Mr. Stevenson that this boy did actually sail on board that ship, and produced Mr. Crommy, at that time clerk to Mr. Stevenson, in order to show you that this boy did actually sail on board this

ship. He tells you that this ship was partly freighted by Mr. Stevenson; that it was bound to Philadelphia; that the principal part of the cargo were men and maidservants. He produced Mr. Stevenson's book of entries, and, this book being read as evidence, the title of it was "An account of men and women-servants on board the ship 'James,' which went over the bar of Dublin the 30th of April, 1728." Gentlemen, there was a long list of names, and among the rest was that of James Annesley; and, gentlemen, this Crommy was cross-examined as to the manner of putting servants on board in order to show you that it was impossible this James Annesley could have been put on board without his free consent, for that the way of dealing was to have servants indentured before the Lord Mayor, and the custom was to have one part of the indentures delivered to the servant, the other of the master of the ship, and the name enrolled in the "Tholsel" books. But it appeared from his evidence that the list produced and kept by the merchant was not taken from the indentures or the books of the town-clerk, but that the method of taking such list was that the night before the ship sailed the clerk of Mr. Stevenson went on board, and the master gave him the names of the persons on board, and from that list this entry was made in the merchant's books. So that from this account it was very possible for persons to be sent away that had never indentured. In order to show that this boy was really indentured, the counsel for the defendant produced the original book kept by the town-clerk, in which are entered by the town-clerk the names of the persons who indent for foreign service, before my Lord Mayor, in which was entered the name James Hennsley, and insisted that it was the same person, though wrong spelt, and that the plaintiff had indentured in the regular way, and was carried off, not by force, but according to law. But, gentlemen, I must observe to you that the manner of indenting is such that wherever a person of tender years, as this child was, being about thirteen years old, was to indent, it is always expected that the parent, or somebody that can answer for that child, should be there consenting to that indenture, or that some account should be given concerning him. I mention this because no evidence has been produced by the defendant to show who were present, and you will consider whether it was not in the power of Lord Anglesea to have produced the town-clerk himself, who made the entry, and is now living, and whose knowledge of the Anglesea family was such that upon his memory he might have given some light into this affair, and probably could not have misspelt the name of Annesley, with which he was well acquainted.

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But, to put this fact out of doubt, the plaintiff produced Silcross Ash, an attorney of the Court of Common Pleas who had been employed by the defendant, the Earl of Anglesea, who tells you that upon the defendant's coming to the title of Lord Altham, by his brother's death, the boy was mentioned to his lordship by a gentleman in Ash's presence; that his lordship complained of the reproaches he underwent on the boy's account, and, in particular, said that Hawkins, who was king-at-arms, had refused to enroll his title as Lord Altham upon the clamour made by this boy, and thereupon called him impostor, vagabond, and, he believes, bastard. That Ash then told his lordship if the boy were a vagabond he might be obliged to indent before my Lord Mayor at the "Tholsel," and be transported. And Ash further says that some time after he was again in company with the defendant at a tavern, with others of the defendant's intimates, when my Lord Anglesea, then Lord Altham, told the witness he was gone, meaning the boy, which, coupled with the former evidence, shows, as was insisted, that the defendant intended to put the plaintiff out of the way, and gives credit to the witnesses, who for his lordship executed such intention as before related.

The plaintiff went further to show that the defendant not only occasioned this person's being taken away, but upon the plaintiff's return into England, a misfortune befalling him by the accidental killing of a man at Staines. That opportunity was laid hold of to prosecute him, and under that colour to take away his life, for which purpose one John Giffard has been produced. He appears to have been an attorney of the Court of Common Pleas in England, and agent for the defendant. Some difficulty was made whether his evidence should be received, but the Court having admitted him to be examined with liberty to disclose what did not come to his knowledge as agent for the defendant. You gentlemen will not consider whether the divulging conversation be what is called honourable between man or man, or whether the ill-treatment this person received from the defendant has induced him to appear to give testimony in this cause, but whether what he has sworn be true.

This witness speaks to the declarations made by my Lord Anglesea at the time an appeal was depending between him and Captain Annesley before the Lords in England, upon which occasion the defendant said that it was better for him to throw up his titles, which he did not value, and to give up them and the estate, upon terms, to James Annesley, the plaintiff, whose right they were; that he would go over to France and live there, where he should be much easier and happier than he was at that time. He tells you that this was repeated more than once; that it was not a sudden resolution,

but the result of deliberate consideration, accompanied with another act, which was that of taking a person into his house to teach him the French tongue to qualify him to live in that kingdom. And the witness tells you, further, that the reason why this project was dropped was the accidental homicide committed by the plaintiff, upon which Lord Anglesea changed his purpose, and resolved to prosecute him, and frequently declared that he would give £.0,000 if he could get him hanged, for then he should be easy in his titles and estate, and that this prosecution cost Lord Anglesea £800. As I shall not touch this part of the evidence again, I must desire you gentlemen to consider whether the words sworn to be spoke by Lord Anglesea, as to giving up his estate, may not be accounted for as the rash expressions of a man distressed in his circumstances; but, gentlemen, if you believe the other two facts, that is, that Lord Altham did spirit away this youth, and that he did carry on this prosecution against him, the question will then be, what influence they ought to have upon this cause? And how far they ought to conclude against the defendant as to the fact in question will deserve your consideration, that the plaintiff may not suffer by the illegal acts of the defendant, nor the defendant be injured by your relying too much upon presumptive evidence. If the defendant did send away the plaintiff, that absence must be imputed to the defendant. The suppressor and the destroyer of evidence are to be considered in the same light the law considers a spoliator as having destroyed the proper evidence, and against him defective proof, so far as he has occasioned such defect, shall be received, and everything presumed to make it effectual. Nay, I think you may by law go further, and if the plaintiff has given probable evidence of his being the legitimate son of Lord Altham, the proof may be turned on the defendant, and you may expect satisfaction from him, that Lord Altham, his brother, died without issue, and this on account of that evidence which the plaintiff must be supposed to have lost by the defendant's having so many years put it out of the plaintiff's power to assert his right. And you will also consider whether these acts are not evidence to satisfy you that the defendant, in his own thoughts and way of reasoning, considered the staying of the boy here as what might someway prejudice his title. But whether, as insisted upon by the plaintiff's counsel, you ought to take this as an admission on the part of the defendant, that the plaintiff was the lawful son of Lord Altham, will deserve further consideration. Undoubtedly there is a violent presumption, because no man is supposed to be wicked without design, and the design in this act must be someway or other relative to the title; but whether or no it was the opinion of the trouble he might have from this lad that in-

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duced him to do this act, or a consciousness that the lad was the son of Lord Altham, must be left to your determination, keeping in your mind that it, though violent, is but a presumption, and that the defendant has an undoubted title, unless it be proved that there be a son of his elder brother now living.

Taking the influence of these wicked acts with you, I shall now briefly mention the nature of the defence, which has been, first of all, by many witnesses to show that the reputation of the country was against there being such a child. Colonel Loftus, who lived within eight miles of Dunmaine, who was a person of that rank and distinction in the country as was likely to hear it, says he never heard of it. Colonel Palliser, Mr. and Mrs. Lambert, Mr. Palliser, Mrs. Giffard, have all gone likewise to the same point, and say that they never heard of a miscarriage. But their not hearing of a miscarriage has little weight, because things of that nature are conducted with privacy, and the report of them seldom reaches far. In the next place, they have produced the persons who, they say, were the servants of the family at the time that this birth must have been. Mrs. Heath, my lady's woman; Rolph, the butler, who was there during that time; Anthony Dyer, who was a gentleman to my lord; Martin Neif and Owen Cavanagh, servants in the family. Gentlemen, Mrs. Heath, Rolph, and Dyer, are all positive that there was no child, and that there could be no child without their knowledge, and Mrs. Heath goes so far as to say there never was so much as a pregnancy. These are positive evidences, that stand in direct contradiction to the plaintiff's witnesses. They have also produced William Knapper and William Elms to the same point, both conversant at Dunmaine. William Knapper in particular tells you he was employed by the late Earl of Anglesea to sell the Ross estate, which came to him upon Lord Altham's death without issue, and that though he made a hundred articles for leases of the Ross estate to the tenants he never heard one objection made that there was a son. They then went into another piece of evidence, which, if true, stands in the place of positive evidence, because inconsistent with Lady Altham's being delivered of a child at the time deposed, and that was my Lord and Lady Altham's going to Wexford at the spring assizes, held the 16th of April, 1715, and returning from thence to Dunmaine, and going soon after to Dublin. Mrs. Giffard's account is this, that there being some men to be tried as Pretender's men, the curiosity of Lady Altham proposed a journey to Wexford, that she accompanied my lady in the chariot, that my lord, Mrs. Heath, and Rolph rode. She says when they came to Wexford they lodged at the house of one Sweeney, that they went into Court

and stayed there during the trial, and that Mr. Cæsar Colclough sat by them part of the time; that they stayed a week in Wexford, and then went home; and, as appears by the examinations of Heath and Rolph, they went to Dublin in a very short time after and stayed there all the summer. Heath swears it positively, and Rolph that they stayed there till he went away. Now, gentlemen, if this fact could be established it would undoubtedly put an end to the controversy of this day, because if Lady Altham was at the assizes at Wexford, which appears to be the 16th of April, that she continued there a week, and went back and stayed but two or three weeks at Dunmaine and thence went to Dublin, where she lived the remainder of the summer; and this being at the time when she was supposed to have been delivered of the plaintiff, you will consider if both can be true. But this fact has been disputed, and in this manner: First of all Ker, who was clerk to my Lord Chief Justice Foster, who went that circuit, tells you that he does not remember to have seen any ladies there. This is not a positive proof, but it is a circumstantial one. The next is Cæsar Colclough, who swears that he does not remember to have seen them, and from the business he was engaged in, the gentleman on trial being his relation, he does not believe he sat by any woman that day. There were also two positive witnesses produced to prove that Lady Altham was not there, which were Turner and Higginson. Turner tells you that he was at the house of Dunmaine when my lord went to that assizes, that he saw him get into the coach, and that he saw my lady in the house after my lord was gone. Higginson tells you likewise that on the Tuesday of this assizes he was at Dunmaine, and the occasion that brought him thither (which makes him certain to the time) was to desire Lord Altham to send somebody to Inniscorthy for the £28 arrear of rent which his son was to bring there. He tells you that he saw my lady, that she was undressed, and that he believes she was with child, and drank to her safe delivery. And there is one circumstance further which you should take with you, that Mrs. Heath says in her account the sister of Mrs. Giffard went with them, though Mrs. Giffard said no one went with them but the persons she named, but did not name her sister. Lord Chief Baron

The defendant has also, in order to account for what has been said by the plaintiff's witnesses as to the child taken in by Lord Altham after the separation, and who was carried by him from place to place and treated as his son, examined the several witnesses produced by them who were acquainted with Lord Altham and his family during the time the boy

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was with him, to prove that the boy kept by Lord Altham was the son of Joan Landy by Lord Altham, as was supposed, and that he was always considered and treated by that lord as his bastard. And thus, gentlemen, you see how the witnesses produced in this cause stand as to the most material circumstances in direct opposition to each other, so that the one or the other must speak false. Which of them have done so, God only knows. You, gentlemen, must, after taking the whole into your consideration, say which in your opinion deserves credit. I shall now take notice of the objections to the witnesses on each side.

The objections that have been made to the plaintiff's witnesses, as to their uncertainty with regard to time and place and other circumstances to which they were examined, were also made to the witnesses for the defendant, and if an imputation arises from thence you will consider whether it be not equal on both sides. In the next place, an objection is made to the condition of the evidence for the plaintiff, that they are servants of the lowest stations and meanest condition. You will consider how far that objection ought to lessen, much less take away, the credit of their testimony. Servants about the family, though in the meanest stations, were likely to know such particular facts as they have given evidence of. But on the other side you will consider that the fact in question is a single fact, which might be put into the mouth of anybody, and which has been affirmed and denied on oath by the respective witnesses. You will, therefore, I think, find it necessary with caution to attend to the objections made to the credit of the several witnesses that stand in opposition to each other. For instance, if the credit of Mrs. Cole can engage your belief as to the circumstance of the miscarriage, then Mrs. Heath has not sworn true, because she has sworn the contrary, and that to a fact which must have been observed by her. Again, if Mrs. Cole obtains credit, Mrs. Heath must be mistaken in another fact, though not of that consequence, and that is the removal to Dunmaine. Mrs. Cole says, and Mrs. Briscoe too, that my Lord and Lady Altham went to lodgings in Essex Street; Mrs. Heath, that they went directly from Captain Briscoe's to Dunmaine. Now, gentlemen, as to Mrs. Cole's and Mrs. Briscoe's testimony there is no imputation other than what arises from their age at the time to which their testimony relates, when the eldest of them could not be above thirteen by her own account, and she speaks to a fact which Mr. Prime Serjeant thinks was not likely to engage the attention of so young a person—I mean the place to which they removed. But you will consider whether the removal of my lord and his lady from their family

to another place in Dublin, especially as an intimacy was kept up between them, be not sufficient answer to that objection. As to the circumstance of the miscarriage, there she is extremely positive, and probably the curiosity of girls of her age in these matters exceeds that of grown persons. There was an observation made as to the word "abortion," but I think there can be no great weight laid upon that; the term may have been learnt since. There has been also a witness produced to discredit Mrs. Heath as to the very substance of her testimony. What he has said must be fresh in your memory, but you will remember the seeming art made use of by him to show he was compelled to give his testimony. Besides, his testimony is not supported by circumstances, but is another instance of oath against oath. Lord Chief Baron

Gentlemen, the next witness I shall take notice of is Rolph (I do not speak regularly to them, intending only to take up the most material). He certainly delivered his testimony in a very clear manner. He gave an account of his coming to and living in the family, and of his continuance in it and manner of leaving it, and there is one circumstance that gives credit to Rolph, as he is the only one that can be said to receive credit from the witnesses on the other side. The plaintiff's witness, John Scott, has said that Rolph was butler before and continued after my Lady's delivery, which agrees with Rolph's evidence but varies from all who have spoken to the birth, who say that Rolph was gone, that Meagher lived there at the time of Doyle's and Murphy's being there. Dennis Redmonds does say there was such a servant as Rolph, but that he was gone before the delivery. But then you will consider what figure this Rolph made on his cross-examination. Such an absolute uncertainty as to everything but what he was brought to disclose, and his readiness to give evidence on one side of the question, necessarily induce suspicion, and you will consider his attempt to throw a reflection on the plaintiff, as if those concerned for him would have tampered with Rolph. But the story carries an improbability in it that a man should send victuals before him, and come and offer to a stranger what was not in his power to give, and that in such an open manner.

[Here Mr Baron Mounteney spoke to the Lord Chief Baron.]

Gentlemen, my brother Mounteney mentions one thing which I am mistaken in, if he is right. He says that when Mr. Mackercher made the offer of a lieutenancy to Rolph his own company were only present. I do apprehend there was not only the compay of Mackercher but the company that was with Rolph. Gentlemen, if I mistake the evidence on either

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side, impute it to my memory, for I have no intention to misrepresent, and should be extremely glad if anybody would set me right. When you come to look upon your notes you will see how this fact stands. But there is one thing I would observe as to the testimony of Rolph, and that is that Mrs. Giffard and he differ. Rolph has said that the new road leading from the house of Dunmaine to the cabin was made for the benefit of going to Mrs. Giffard's and Colonel Palliser's, and that Mrs. Giffard always went that way. Mrs. Giffard says that she never went that way, but always by the bridge. These are slight circumstances, but, however, where witnesses stand in such direct opposition to each other, they deserve some attention.

Anthony Dyer, gentlemen, is another material evidence for the defendant. But you will consider how far his credit is affected by what I am going to mention. The witnesses on both sides have said that after the separation of Lord and Lady Altham the child, be it legitimate or illegitimate, came into the house of Dunmaine. William Elms fixes it to three weeks after, and another to a month; but this man says that he was there at the separation, and three-quarters of a year after, and swears there was no child in the house during that time. As to the positive evidence on the part of the plaintiff, Doyle and Murphy, the observations on them as to their coming into the service have been made and are extremely strong. Murphy did say that Doyle came there first; she afterwards changed and said she came there before Doyle. You will consider also the manner in which they gave their evidence. And in regard to Mr. Palliser, Mr. Lambert, and those people that spoke to the pregnancy on the part of the defendant, they have gone so far that if you believe them there could not have been a miscarriage. There is one thing I forgot to mention, to strengthen the evidence of Mrs. Cole, and weaken that of Mrs. Heath, which is, that Lambert said that Sutton, the surgeon, was sent for to Ross, and stayed at Dunmaine a fortnight. Now when you come to compare the times of his being sent for and the miscarriage, you will consider whether it does not tally pretty near with the time when Mrs. Cole gives an account of the miscarriage, and yet Mrs. Heath says he never did attend my lady.

There is one general observation to be made on all the evidence, and that is, that there is a forwardness, an inclination to go on to serve their party, on both sides, and that they want that candidness which gives a credit to witnesses. I say not this on either side, but you will consider whether it is not an observation that runs through the whole. I shall not trouble you with respect to the surgeon. The

objection to him arises from the improbability of his own testimony. As to Christopher Brown, who was one of the servants attending at dinner at the christening, supposing what he says could be credited, you will consider how that man was mistaken in the description of the house. And you will permit me to observe that there is a great difference between not recollecting circumstances and a witness swearing to those that are false. The not recollecting may consist with integrity, the swearing to a falsehood never can, nor can you give any credit to such a witness, because you cannot say that he is wrong as to this and right as to that part of his evidence. With regard to the several witnesses who say the child from first to last was not only reputed but called a bastard, and Joan Landy's child, and that the boy knew it, and sent his duty to her as his mother, you will consider how consistent that is with what William Elms and others have said, who would have it understood that my lord would not for £500 that the child should know his mother, and that my lord ordered them to set the dogs upon her if she came near the house, and yet those who speak of him at Kinnea and Carrickduff say that my lord has often cursed him for having too much of his mother's blood in him. How these different accounts can be reconciled you must consider. There is one witness more on this head that I must take notice of, and that is Elizabeth M'Mullen, and she would have it understood that out of the mouth of the boy himself, at the funeral of his father, upon being asked by her who was his mother, he said Joan Landy. Gentlemen, you will compare this with the testimony of Mr. Bush and Mr. Tighe. The boy, when he lived with Mr. Bush, persisted that he was my lord's own son, and the same at Mr. Tighe's. Now, if the boy had once received the notion of his being the lawful son of Lord Altham, you will observe the improbability there is of his saying to her, a stranger, I am the son of Joan Landy. I will carry this a little further, and that with regard to the letter she says was wrote by her giving an account of Lord Altham's death. If this circumstance be false, that letter must have been fictitious and of later date.

Lord Chief Baron

I have now mentioned the evidence on both sides, and from what I observed to you it does appear that here is such a clashing of witnesses, such contrary evidence, that though some circumstances might be reconciled, yet others will remain irreconcilable; and therefore I must, and I think you gentlemen will, be obliged to consider the circumstances that will throw a probability or improbability upon the testimony you have heard. The strong circumstances which induce probability in favour of the plaintiff are those I have mentioned, of

Lord Chief Baron

spiriting him away, and afterwards attempting by an unjust prosecution to take away his life, to which I have before spoke at large, and need not repeat. On the part of the defendant the circumstances are of a different kind, and those are such as relate to this family from the beginning of the transaction to the end, and arise from the quality and circumstances of the persons, which, as has been urged, must have rendered a fact of this kind too notorious ever to have been doubted, especially in this kingdom; that it must have been known to the relations of this family in England, whose estate and honours were to be enjoyed by that son; that my Lord Altham himself ought to have made it public; and that it was the interest of Lady Altham that the Duke of Buckingham, her father, should know that she was with child. Again, you will consider the improbability arising from the place where he was born—at Dunmaine, in a remote part of the country, attended by a country midwife, and the surgeon you have seen. Ladies, say they, of her rank would not submit to it, and are usually placed on such occasions where they can have the best assistance, and the consequence of a child to this family particularly required it. In the next place, you will consider whether there be not a further improbability arising from the nurse; that a poor body should be employed is no wonder, but that an infamous poor body, rendered infamous, as was supposed, by my lord, and in that very place, should be taken by my lady to nurse her legitimate child is scarce to be accounted for. There is nothing said to reconcile this, but the testimony given by Laffan; and she tells you that this was a secret not disclosed to my lady till after the separation. Indeed, if you believe this the improbability will decrease, but you will find it difficult to suppose my lady the only person in the family to whom this was a secret. The place where the child was nursed has been also urged, but the difficulty is not that a nobleman's child was nursed at a poor man's house, but whether that house was fit to receive a child intended to be preserved; and therefore the probability or improbability in this instance will depend upon the credit you shall give to the different accounts of the cabin where this nurse lived. It has been further said that the sponsors at the christening of this child ought to have been of high rank, and from among the relations of this noble family. Again, this child, after the separation, was removed from place to place, and we have not heard that Lady Altham, either by herself or friends, took any care or notice of him, except the single instance at Ross. Was it not Lady Altham's interest to have acquainted the Duke of Buckingham that she had a son by her lord; that he had sent him away, and put this child

into the care of his whore? And was it not probably if this notice had been given that care would have been taken of this child by some of the family? The little care taken of his education by my lord has also been urged. In answer to which you have been reminded of the character and circumstances of Lord Altham. Again, my lord's parting with this child, or rather exposing him, in the manner you have heard cannot, as it is said, be accounted for, supposing him to be the real son of Lord Altham. But this is also attempted to be answered by the influence of Miss Gregory, and her representing him as a bastard, in respect to my lord, though born in wedlock. But, say the counsel for the defendant, supposing the plaintiff to be what they have endeavoured to prove, a bastard, the whole may be reconciled. But if the inhumanity of exposing this child raises the objection, you gentlemen will consider whether a person capable of treating his own bastard in that manner may not be supposed capable of being worked up by a bad woman to turn his legitimate child out of doors. The inhumanity seems equal in both cases, as both are entitled to the care and protection of the father. I had almost given the preference to the natural child, as the legitimate does not stand in equal want of it. The mother, the family, may take care of him, but the other is cast off. But, gentlemen, though this objection may be removed with respect to the father, it makes the objection very strong when applied to the mother. The sufferings of the child in this manner were what one would expect should have excited and called for the mother's peculiar care; that she was not ignorant of it you will gather from the testimony of Catherine O'Neill, and you will consider the manner in which the mother is supposed to treat that child—"I should be glad to see my son, but I know it would cost the servant that brought him his bread." It must be a weak affection that could for that reason be prevailed on not to see the child. This lady lived two years after the death of her husband, and we do not find any evidence of her care for this son, which has been urged also to show that he was not her son. Again, it was her interest to take notice of this child. It has been mentioned, and not denied, that there was an estate of £1200 a year that went away on the death of Lord Altham, and would have gone to this son, if legitimate. It was insisted upon that Lady Altham might have applied for the guardianship of her son, and have had a good allowance made by the Lord Chancellor for the discharge of that trust, which she wanted. I must also observe the additional weight they gave to this objection, from the testimony that Welsh gave, of her declaring that her heart would break were it not that she had a promising young son who would be a support to her in her old age. Alderman

Lord Chief Baron

Lord Chief Baron

King, at whose house she resided fourteen months, a man of integrity and truth, whose credit cannot be controverted, says he never heard her mention her having a son, though the intimacy of dining at one table for that time must probably have afforded frequent opportunities of doing so. And whether a woman, under the affliction of a separation and her unhappy circumstances, could have concealed such a fact is worthy your attention.

There was another matter urged as an improbability from the testimony of Colonel Wall. I shall state to you how that fact stands. Colonel Wall said he had taken an opinion for Lord Altham as to the power he had over the Anglesea estate; that, according to that opinion, Lord Altham was tenant in tail, and might have barred his issue, and by that means have had it in his power to raise more by the sale of his reversionary interest, supposing he was only tenant for life, expectant on the death of the then earl. But the same witness also said that he would not, upon the credit of this opinion, carry the title to market, and that, notwithstanding this opinion, he was very angry with his brother, the now defendant, for refusing to join with him in selling their reversions. So that Lord Altham's reversionary interest being certain, and his other depending on an undecided question in law, you will consider whether upon these views he was more likely to have made public or concealed his having a son.

Having gone through with what I proposed to say upon the evidence, I shall only, in general, take notice that it will be proper for you gentlemen, while you are considering this case, to take with you the characters of the persons actors in it, and thence to judge what was or was not to be expected from them. Again, if there are, as I suppose there will be, some of the plaintiff's witnesses to whom you will not give credit, you will consider whether the plaintiff in justice ought to be affected thereby; you will consider him as reduced by the defendant to the necessity of making use of such evidence as offered, and in such case bad witnesses may have obtruded themselves, or art may have been used to put them in his way, so that unless it appeared that the plaintiff made use of them, knowing them to be bad, they ought not to be placed to his account. You will also consider that, though you have only the defendant before you, yet the remainder-men, who do not derive under the defendant, are to be affected by your verdict, and ought not to be postponed, unless you are satisfied that the plaintiff is the legitimate son of Lord Altham; therefore you must consider (taking the proofs, the probability, and the several things together) whether the plaintiff be the lawful son or not. If he be, you must find for the plaintiff; if not, for the defendant.

Baron Mounteney's Summing-Up.

Lord Chief Baron

Gentlemen, I forgot to mention the evidence of my Lord Mount Alexander, and of Mr. Medlicott, concerning Lord Altham's declarations as to his having a son. Lord Mount Alexander told you of an expression of Lord Altham's to one Mr. Crow, an expression not very easy to be understood—"My wife has got a son, which will make that rake my brother's nose swell," which has been applied to the son now in question. You will consider whether it concludes necessarily to that, or whether Lord Altham might not have in his imagination some other child begot on the body of my lady. There was an intimation of a son by one Segrave, who might be then living. How far this rumour was in my lord's mind is hard to say, but if this was not in his thoughts the expression is extraordinary—"My wife has got a son." This might be said of such a son, but you will consider whether it was a manner of expression for a son of his own, born in his own house. As to Mr. Medlicott, the words sworn to by him were that my lord should say, "I have no child, nor know not that I ever shall. I do not care if the devil had the estate." If my lord looked upon the son by his lady to have been begot by another man, consider if the words import more than this —"I have no son, no son that I suppose to be my own; I do not care if the devil had the estate."

But taking each set of words as contended for by each side, all that can be said is that my lord has at different times varied his manner of speaking on this subject. Whether you can find out the motives inducing him to do so, or can draw any conclusion therefrom, must be left to your consideration. I shall think myself happy if anything collected by me can assist you in the discovery of truth.

Baron Mounteney

Mr. Baron Mounteney—Gentlemen of the jury, my Lord Chief Baron hath summed up this evidence in so full, so judicious, and so masterly a manner that it would be a very improper task for me to attempt to go again with you over the evidence at large.

I shall, therefore, confine myself to some of the more capital parts of the case, and although I am extremely sensible in how inaccurate and disjointed a manner I shall lay my thoughts before you, yet with the hope of striking out even the smallest spark of light which may help to guide you through this dark affair, I shall endeavour to recollect a few remarks on those parts of the evidence which strike my understanding in the most forcible manner.

And, gentlemen, I shall take up the case where the evidence for the plaintiff and the observations of the defendant's counsel closed, I mean the kidnapping of the lessor of the plaintiff

Baron Bowes and the prosecution for murder carried on against him by the defendant.

The latter of these two facts I shall consider first. It is proved by John Giffard, the attorney employed to carry it on, and in the course of his evidence, gentlemen, several things occur which, though not relative to that prosecution, are yet extremely material for your consideration.

In the first place, gentlemen, he relates to you a conversation between the defendant and himself so long ago as the month of March, 1741, and the occasion upon which that conversation happened. He tells you that at that time it was the common topic of discourse that Mr. Annesley was returned from the West Indies to assert his rights, and that the defendant my Lord Anglesea was at that time embarrassed with a variety of lawsuits; that my lord expressed great uneasiness upon both accounts, and thereupon told him that "he should be very glad to send to Mr. Annesley, and if he would allow him £2000 or £3000 a year he would surrender up to him his titles and estates, and go live in France, for he should be much happier than to be so tormented, and had rather his brother's son should have it than anybody else; for if Jemmy had the estate he should live easy in France, for it was his right, and he would surrender it to him; that he did not value the title, he would go live in France; and that he might live the easier there would send for a French master to converse with him in that language."

The counsel for the defendant, gentlemen, with great art and ingenuity endeavour to avoid the force of this evidence, and in the first place they represent this declaration of my lord with regard to a compromise and his going to France as a hasty, passionate expression, flowing from his uneasiness of mind, on account of the ill situation of his affairs and his resentment against the Annesleys.

But, gentlemen, from Giffard's evidence this could not possibly be the case, for he tells you it was my lord's resolution, that he continued in that resolution from the time of the first conversation, which was before the 10th of March, 1741, to May, 1742; that in pursuance of that resolution he actually did (as he had declared he would) send for a person, one Stephen Hayes, and had him in the house to converse with him in French; and that he, the witness, was present forty times.

The next thing, gentlemen, suggested by the defendant's counsel was that my Lord Anglesea (in his then uneasy situation, and so angry with the Annesleys, as Giffard said he was) might possibly be induced to wish for such an accommodation as was mentioned with the lessor of the plaintiff,

not through a consciousness of 'is being the legitimate son of the late Lord Altham, but with a view of gratifying his resentment by disappointing the Annesleys, and at the same time of promoting his own interest by securing to himself a larger share of the estate than would otherwise remain to him. Baron Mounteney

But, gentlemen, when you consider the following part of Giffard's evidence you will find that neither can this interpretation hold, because if this had been the scheme my lord must certainly have persevered in it. Whereas, upon the unhappy accident of Mr. Annesley's killing a man, this supposed scheme is abandoned and another (much more beneficial, as Giffard told you, for the defendant, and absolutely destructive of the other) is immediately embraced, which was to carry on a prosecution against Mr. Annesley for that fact, and if possible to get him hanged.

Consider now, gentlemen, the evidence concerning that prosecution, and the circumstances attending it.

The first of May is the day on which the murder is in the indictment laid to be committed. On the second Lord Anglesea retains Giffard to go down to Staines to collect evidence and to carry on the prosecution. On the fourth, the coroner's inquest finds it wilful murder. Before Giffard returns from Staines my lord goes down to Hounslow to meet him in order to learn how things went on, and declares to him that he did not care if it cost him £10,000 if he could get Mr. Annesley hanged.

Quo animo are these things said and done by the defendant? Upon what grounds was it that the noble lord thus officiously interposed upon this occasion? That he showed so much impatience to learn how things went on? That he actually expended such large sums of money as Giffard expressly tells you he did (I think no less than £800), and declared himself ready to expend much larger in carrying on this prosecution? Was it for the sake of justice? If so, why all those precautions, that contrivance, which you were told of, that my lord might not appear to be concerned in it? If not for the sake of justice then, gentlemen, you are to consider upon what other principle and motives this extraordinary conduct can be accounted for. And this will be the less difficult for you to do when you shall compare these facts and circumstances with the reason given by my lord for that remarkable declaration of his as to the £10,000, which Giffard swears positively my lord mentioned to him, viz., he did not care if it cost him £10,000 if he could get him hanged, "for then he should be easy in his titles and estates."

Baron Bromley

There is another part of Giffard's evidence which, as it strikes me strongly, I shall mention for your consideration, and that is that my lord told him (fifty times, I think he said, between the 7th of December, 1741, and the 14th of July, 1742, which was the day of the trial) that this pretender, as he called him, was transported for stealing a silver spoon.

You will consider, gentlemen, what weight this circumstance may have when coupled with the complaints made against him by Miss Gregory of thieving with what the witnesses, who prove the several attempts upon the boy, and at last the actual transportation of him, have told you of my lord's repeatedly calling him a thieving son of a whore; and with the particular charge which one of them swears my lord made against him of having stolen from him a silver spoon.

I have endeavoured to state to you, gentlemen, the main substance of Giffard's evidence. In order to avoid the force of it, the counsel for the defendant have strongly insisted upon two objections to his credit.

The first is, that understanding, as he owns he did, that my Lord Anglesea by his declaration as to the £10,000 meant that he intended to destroy Mr. Annesley if he could, and that he would expend that sum in means to have him hanged, he did not decline being further engaged, but still continued to carry on the prosecution.

And indeed, gentlemen, it does to me carry with it an imputation upon Giffard, that he did not immediately fling up any concern in this or any other business of my lord's, and publish this declaration to all mankind. But, gentlemen, you will consider, on the other hand, what Giffard hath said in excuse of himself. He tells you, "If there was any dirty work he had no hand in it." He distinguisheth between a bad purpose and the carrying on a legal prosecution, and he tells you "that the coroner's inquest having found the fact wilful murder, he thought that a sufficient foundation for him to proceed."

The other objection to his credit is, that being an attorney retained by Lord Anglesea to carry on this prosecution (in any suit between Mr. Annesley and my lord, he swears positively, he never was nor ever expected to be retained), he comes here voluntarily to disclose the secrets of his client.

Now, gentlemen, as to the prosecution, you will observe that the original discovery of my lord's being concerned in it was not voluntarily made by the witness, for he tells you that he found himself under the necessity of suing my lord for a large sum of money which remained due to him upon his bill of costs, and that upon his so doing my lord filed a bill against him in the Court of Exchequer in England,

in his answer and schedule to which he was obliged to set forth the particular items of his bill of costs; that by this means (as he supposeth) Mr. Mackercher got knowledge of it, and thereupon applied to him to give his testimony in this cause. Baron Mounteney

As to the conversation between my lord and him, I have already declared my sense so fully, when the point was debated, whether evidence of it should be admitted or not, that I shall trouble you with a very few words only upon it now.

Gentlemen, I can by no means allow it to be any objection to the credit of the witness that he voluntarily discloseth that which the Court hath unanimously determined he was compellable to disclose. And I must say this further, that in my apprehension Giffard could not have justified himself either to God or man if he had not disclosed it, especially as it was a declaration wantonly made to him, not under the seal of friendship, nor of that confidence which is necessary between client and attorney.

Gentlemen, you are the judges, and you will carefully consider what degree of credit to give to this and every other witness who hath been produced upon this occasion; and God forbid that any part of the evidence, any argument, or any observation should have more or less weight with you than it will bear.

If you believe the evidence of Giffard you will then consider that you have an express acknowledgment of right in the lessor of the plaintiff from the mouth of the defendant; that, independently of this, you have declarations and facts which strongly import a consciousness of that right. And, lastly, you will consider what strength this evidence of Giffard adds (if any strength is wanting) to the evidence of the kidnapping in 1728.

That fact, gentlemen, stands positively and fully proved by a multitude of witnesses neither discredited nor, as it was promised by the defendant's counsel, contradicted. And, indeed, if that fact was not so clearly proved, the evidence of Mr. Silcross Ash is, in my apprehension, sufficient to silence the least doubt about it.

You will then consider, gentlemen, if you believe that evidence, whether there does not from thence arise the most violent presumption of the defendant's knowledge of title in the lessor of the plaintiff.

It is represented to you by the defence that it was notorious to everybody conversant with that noble family that Lady Altham never had a son in Ireland, that she never miscarried, that she never was with child. On the other hand, that it was equally notorious that my lord had a son by Joan Landy,

Baron Mountney

and that the lessor of the plaintiff was that son. Now, if this was the case, for heaven's sake, gentlemen, what apprehensions could the defendant possibly be under from a boy who, if he had set up any claim to the title and estate, must inevitably have been detected as a most notorious impostor?

But if, on the other hand, this boy was the legitimate son of Lord Altham (and whether he was or not must certainly lie in the knowledge of the defendant) then, gentlemen, you will consider whether this kidnapping and this prosecution will not be easily and naturally accounted for, and whether any other adequate cause than a knowledge of his being so can, with any degree of probability, be assigned for this extraordinary, this iniquitous behaviour of the defendant.

But, gentlemen, the counsel for the defendant have told you that the material fact in this case is the birth, and unless that is incontestably proved that the plaintiff cannot possibly avail himself of any presumptions (an ingenious gentleman chose generally to call them suspicions) which arise in this case.

Gentlemen, I differ entirely from them upon that head. If that which, to be sure, is the material fact, were proved to you incontestably, the plaintiff would then have no occasion for presumptions. Presumptions then only are, or can be, of use when the fact in dispute is not, nor can be, proved incontestably.

Gentlemen, as this assertion hath been so strongly insisted on, and hath had so much stress laid upon it by every one of the learned counsel, let me detain you a little to make a few observations upon the subject of presumptions.

Presumptions, gentlemen, have at all times and in all laws which I have ever heard of, particularly in our own, been allowed to have great weight in doubtful cases. Some are of so high a nature that the law will not admit of any proof to the contrary, and these are called presumptions *juris et de jure*. Again, there are presumptions of law, as likewise what the writers upon this subject call presumptions of man (such as are collected occasionally by man's understanding from given facts), which, though they fall short of that strength and conclusive force which the others have, are yet to stand in the place of full proof till the contrary is proved.

"*Violenta presumptio* is many times *plena probatio*," are the express words of my Lord Coke, and the case which that great oracle of the law puts upon it is this—"A man is run through the body with a sword in a house, whereof he instantly died. A man is seen to come out of that house

with a bloody sword, and no other man was at that time in the house." Upon these circumstances, gentlemen, a violent presumption arises, and shall stand for full proof, unless the contrary can be proved, that that man was the murderer. Baron Mounteney

Now, gentlemen, you will observe that in the case put (and many others of a like or even inferior kind may be put in which great numbers of the king's subjects suffer capitally) the jury from circumstances infer a criminal fact committed by the person accused. *A fortiori* it should seem reasonable from a criminal fact proved to infer the circumstances and motives leading to that fact.

Mr. Serjeant Marshall very properly mentioned to you the case of the spoliation of a deed.

In that case, gentlemen, it is an established maxim "that all things are to be presumed in disfavour of the spoliator." And you will consider whether a parity of reason will not operate strongly in the present case. Mr. Serjeant's reasoning on this head was entirely agreeable to what I remember to have heard laid down by one of the greatest men who ever sat in a Court of judicature, viz., that circumstances were in many cases of greater force and more to be depended upon than the testimony of living witnesses.

Witnesses, gentlemen, may either be mistaken themselves or wickedly intend to deceive others. God knows, we have seen too much of this in the present cause on both sides! But circumstances, gentlemen, and presumptions, naturally and necessarily arising out of a given fact, cannot lie. And, gentlemen, it must be left to your consideration whether in this case the presumptions arising from the kidnapping and the prosecution for murder do not speak stronger than a thousand witnesses.

The next observation, gentlemen, which naturally ariseth from the kidnapping is that the lessor of the plaintiff is thereby thrown fifteen years back in his evidence. If his case had come under your consideration, or that of any other jury, soon after the death of the late Lord Altham, it would not have been attended with the difficulties it now is, but must have received a very easy and clear determination. Mrs. Shiells, who is sworn to have brought him into the world; the clergyman, who is sworn to have christened him; the persons who are sworn to have been sponsors, with many other material witnesses, were probably all, or most of them, then living, and might have borne their testimony. The account which you now have of them is that they are all dead.

In the next place, gentlemen, you are to consider the dangers to which this gentleman lies open in asserting his supposed

Baron Bounteney

right. On the one hand, from witnesses officiously obtruding themselves; and on the other, from witnesses who may have been industriously obtruded upon him. And if you believe that these difficulties have been occasioned by the wicked act of the defendant you are then to consider whether a much slighter evidence than might otherwise have been required will not satisfy you, in a case thus circumstanced, of the truth and justice of his claim.

But, gentlemen, the counsel for the defendant further tell you "that although you might possibly be induced to think the defendant capable of committing a wicked act yet that ought not to influence your judgment as to the determination of his property."

And, gentlemen, I must agree that a wicked act, nay, repeated wicked acts, in general ought not to influence your judgment. But if the defendant hath committed a most wicked act against the person who then asserted himself to be the son of Lord and Lady Altham, and who is now contesting with him his title and estate; if he hath done another very extraordinary, though legal, act against him in a clandestine manner and coupled with a declaration highly criminal, this in my opinion may and ought to have great weight with you upon this occasion.

Another thing, gentlemen, insisted upon by the defendant's counsel was that if the case be doubtful the present possession ought to turn the scale in favour of the defendant.

Now, here I must again differ from the learned gentlemen. If indeed upon the whole evidence the case stands doubtful, they say well. But if upon the direct positive evidence the case is balanced, then, gentlemen, the kidnapping and the prosecution will, in my apprehension, turn the scale in favour of the plaintiff. For a violent presumption is to stand for truth till the contrary is proved. Now, if upon the positive testimony on both sides the mind remains *in equilibrio*, then, gentlemen, the contrary is not proved, and consequently the presumption stands.

I cannot help saying that I think it pretty extraordinary in this case that so many objections should be raised, and so much stress laid upon them, against your being influenced in your judgment by presumptions, by suspicions, by probabilities.

Gentlemen, their whole defence is built upon probability and improbability.

They first tell you you are to judge not upon probabilities but upon positive proof of the material facts; and to that positive proof, when given, they tell you you ought to give no credit, for it is improbable.

Baron Mounteney's Summing-Up.

There was one objection of this sort which I forgot to mention, and that was as to the proof of the kidnapping. They told you, gentlemen, that although the defendant could be supposed wicked enough to commit such a fact, yet it was inconceivable that he should be so weak as to do it at noonday, that he should carry the boy through a public market, nay, by the very stall of Purcell, who had before protected him (by the by, gentlemen, you will remember that the boy was charged with felony, and carried off by known constables); and the same objection, I think, was before made to Giffard's testimony, that it was utterly incredible that any man living should be so weak as to put himself into the power of any other man by making such declarations as Giffard swore my lord made to him.

I must own, gentlemen, that this objection does not to my understanding carry any great weight with it.

Wickedness and weakness generally go hand in hand together, and upon the repeated observation of their doing so is founded that well-known saying—

Quos Deus vult perdere, prius dementat.

The next part of the case which I shall speak to is the evidence of Mrs. Heath as it stands opposed to that of Mrs. Cole, and the evidence of Rolph opposed to that of Mr. Colclough, Turner, and Higginson.

It was my desire that Mrs. Cole and Mrs. Heath might be confronted, because I did then, and do still think, that this case may receive great light and may be greatly narrowed for your determination by a careful consideration of Cole's evidence, as it stands in direct contradiction to the testimony of Heath, whom I look upon as a capital witness, and one of the main pillars of the defence.

In other parts of the case, gentlemen, you meet with many variations between the witnesses as to periods of time and other minute circumstances, which will not be of much consequence in the cause or tend to impeach the credit of those witnesses on the one side or the other. But when once you come to a fact in which two positive witnesses flatly contradict each other—a fact, the truth or falsehood of which the witnesses on each side must with as much certainty and exactness know at the time she gives her testimony as she did at the time that fact is said to have happened, let it be ever so long ago—so that one of them is, to demonstration, perjured, then, gentlemen, it becomes exceedingly material for you to consider which of two such witnesses you will give credit to, and your determination of that point may go a great way towards enabling you to form a judgment upon the whole case.

The Annesley Case.

Baron Montesquieu

The first material circumstance which occurs to me, in which Cole and Heath differ, is as to the going or not going away of Lord and Lady Altham from Captain Briscoe's (at whose house the reconciliation was brought about) to my lord's lodgings at Vice's in Essex Street.

Mrs. Heath swears positively that during their stay in Dublin they never lodged one single night out of the house of Captain Briscoe. Mrs. Cole (supported by her sister, Mrs. Briscoe, by Alice Bates, a servant in her father's family, and by Catharine MacCormick, Vice's servant) swears as positively that, after staying four or five days at her father's, they went to lodgings in Essex Street (as to the person's house she is not positive, but she takes it to be Vice's), and there continued a considerable time—I think about two months—before they left Dublin and went to Dunmaine. And, gentlemen, you will remember that Mrs. Cole, when she was a second time produced, gave you a particular reason why she could be so positive as to that fact, which was, "that, notwithstanding the reconciliation between my lord and lady, her father still continued uneasy about the matter, and was very desirous and pressing that they would leave his house and go to other lodgings, because he thought it would have a better air of their being well together," which she explained afterwards by saying that it would become more public and notorious to mankind that my lord and lady were, in fact, reconciled.

This circumstance, as soon as it was mentioned, I thought struck some light into this affair—it did to me explain clearly two other odd circumstances which I shall mention to you presently.

The next fact, concerning which Mrs. Cole and Mrs Heath stand in direct opposition, is the supposed miscarriage at Dunmaine. Mrs. Cole swears positively that about the middle of the night, after the accident of Lord Altham's breaking the saucers, Mrs. Heath came into the bedchamber of her mother, Mrs. Briscoe, with whom she lay, alarmed her with an account of my lady's being extremely ill, and begged that she would immediately rise and go to her, which her mother accordingly did; that the next morning she (the witness) was in my lady's bedchamber, where were present her mother, Mrs. Heath, and several of the servants; that her mother there told her that my lady had miscarried, and showed her the abortion in the basin.

Mrs. Heath, on the contrary, swears as positively that she did not, either upon that or any other night, call up Mrs. Briscoe; that she does not remember that Mrs. Briscoe or her daughter was in my lady's room the next morning; and she swears positively that my lady did not then miscarry, nay, that she was not, either then or at any other time, with child.

Baron Mounteney's Summing-Up.

Baron Mounteney

It was insisted on strongly by the defendant's counsel that this evidence of Cole was attended with great improbability; that it was incredibly strange that a mother should show an abortion to her female child of such tender years. And, indeed, gentlemen, I think that fact does, *prima facie*, appear to be extremely odd, and to carry with it a strong air of improbability.

There was another fact proved in the very outset of the cause, which (though it had not the same remark made upon it by the counsel) struck me in a very odd light, and that was, that upon the reconciliation of Lord and Lady Altham, at Captain Briscoe's, Mrs. Dorothy Briscoe, then not above ten, and her sister, Mrs. Cole, not then above twelve years of age, were, with the rest of the family called into the room to see my lord and lady in bed together.

But, gentlemen, you will consider whether the reason which Mrs. Cole tells you her father had for pressing Lord and Lady Altham to leave his house and lodge elsewhere in Dublin, viz., that their reconciliation might become more notorious to mankind, does not fully explain, and strongly corroborate the proof of, those two odd and otherwise unaccountable facts.

Gentlemen, you will consider further whether from these three circumstances connected and compared together there does not arise a strong probability that Captain Briscoe (who, I think, appears to have been the person employed by the Duke of Buckingham to bring about the reconciliation) had some apprehensions, that although the reconciliation was effected, and although, in consequence of it, Lady Altham should have issue by my lord, yet that in some future time, and for some reasons or other, Lord Altham (whose character and conduct appear pretty extraordinary upon the evidence in this cause) might be induced to bastardise that issue.

And, gentlemen, you will consider further whether such an apprehension in Briscoe, as I have supposed, would have been unnatural or ill-founded when you have compared these circumstances (which, as I have mentioned, seem to render it probable that he had such an apprehension) with the evidence of Palliser, the younger. He relates to you a very extraordinary conversation which passed between my lord and him, about five days before the separation, as they were returning from Bourkstown to Dunmaine. He tells you that my lord called to him in a familiar manner, and said, "Tom, I will tell you a secret. As I have no son by my wife, nor ever expect to have any, and as my Lord Anglesea is very angry with me for keeping this woman I am determined to put her away, not to disoblige my Lord Anglesea." The same witness had before sworn positively that he never had—that he never attempted to have—that he believes in his conscience that my

Baron Mountenay

lord did not suspect he had—any criminal commerce with Lady Altham; and that my lord only made use of him as a colour and pretence for putting away his lady.

Now, gentlemen, you will observe that upon this testimony, even of the defendant's witness (who, indeed, is a very material witness for the defendant in some other parts of his evidence, if you give credit to him), Lord Altham was a man capable of putting away his lawful wife, to whom he had lately been reconciled—upon a mere pretence—and for no other real cause than that he might not disoblige Lord Anglesea. If he were so, you will then consider whether it be at all an unnatural and strained supposition that he was capable of abandoning and bastardising his lawful son in order to oblige some other person or persons.

This supposition, gentlemen, will, I think, appear still less unnatural when you recollect how Miss Gregory's behaviour to the boy stands upon the testimony of another witness for the defendant—I mean Herd (who, in his account of the boy's treatment by my lord before they came to Dublin, differs totally, as my Lord Chief Baron hath already observed, from all the gentlemen of that part of the country who have been produced before you).

Herd tells you that when my lord lived in Frapper's Lane great complaints were made to my lord against the child by Miss Gregory of his thieving—that he cannot tell whether the boy was really guilty or not, but that he confessed himself so—and that upon this my lord (whom the witness had never once seen strike the child upon any occasion in the country) corrected him more severely than ever he had seen any child corrected in his life.

When the witness was asked by my Lord Chief Baron what those things were, with the thieving of which this boy (who is admitted on all hands to be the son of my lord, though his legitimacy is disputed) was charged by this lady, and for which he was so cruelly corrected by his father, he tells you they were "a jockey belt and a pair of pigeons."

These are circumstances which, I must own, strike my understanding strongly. You, gentlemen, are the judges, and you will well consider what weight they carry when connected with the rest of the evidence, and what light may be collected from them to guide your judgments on this occasion.

I forgot to mention to you one thing which I think is very remarkable upon Heath's evidence, and that is, that she accompanies some of the plaintiff's witnesses in all the preparatory steps, and separates from them only when they come to the critical and material facts themselves.

She recollects distinctly, with MacCormick, Vice's servant, "That my lord came home late one night disordered with

liquor; that he made a great noise with the chair; that he quarrelled with her; that he jumped out of bed from my lady, and ran towards the window; that he called for Mrs. Lucas, the midwife; swore he would send for her to see if my lady was with child, and with another oath declared that if she was not with child he would turn her away." All these circumstances she recollects minutely, and exactly agrees in them with the other witness; but as to my lady's screaming upon this occasion there she separates. She says my lady would have died first. As to her miscarrying, or to any discourse in the family the next day that she had miscarried, this she positively denies. Baron Mounteney

With regard to the miscarriage at Dunmaine, she agrees with Cole in the fact of my lord breaking the saucers, that those saucers had ugly or indecent figures on them, and that my lord had forbade their being brought to table. But that my lady was the least disordered upon this occasion she denies; that she called up Mrs. Briscoe; that my lady miscarried; that she kept her chamber for several days, or even one day after. All this she positively denies, in direct contradiction to what has been sworn by Cole. And here, gentlemen, it will be extremely material for you to recollect that, pretty exact to the time at which Cole swears this miscarriage happened, and my lady kept her chamber at least five days, it appears from the evidence of the defendant's witness (Mr. Aaron Lambert) that Sutton, the surgeon, whom my lord brought over with him from England, but had turned out of his house on account of some misbehaviour which he had been guilty of in the family, was twice sent for to Dunmaine; that he twice refused to go, being piqued at his having been turned out of the family; that being sent for a third time, and my lord's chariot coming for him, he went, and continued attending my lady at Dunmaine, to the best of the witness's remembrance, for a fortnight. This evidence was produced in order to discredit Brooks, the piece of a surgeon (as he called himself), produced on the part of the plaintiff, who, in my opinion, sufficiently discredited himself. You will consider, gentlemen, whether it does not go strongly in support of the testimony of Mrs. Cole in contradiction and discredit of Heath, with regard to whom an observation was made by the defendant's counsel, which I was exceedingly surprised to hear from that side of the table. They took notice of the peculiar excellency of our law, especially with regard to trials by jury, on which occasions the witnesses are examined *viva voce*; that from confronting witnesses who contradict each other, and carefully observing their appearance and the manner in which they give their testimony, some light is to be

Baron Bunbury collected, and the Court and jury may, in some measure, be enabled to form a judgment upon a doubtful case.

The observation, gentlemen, is undoubtedly just, but what I little expected to have heard from that quarter. For, gentlemen, when you recollect and compare together the outrageous behaviour and vociferous asseverations of Heath, with the calm, sedate, and modest demeanour of Cole, you will consider whether all the weight which can be laid upon an observation of that sort does not lie entirely on the other side.

Another point which hath been strongly, and, indeed, very properly, insisted upon by the defendant's counsel is this: They say it is extremely improbable, if this person were really the son of Lady Altham, that my lady, who is proved to have lived two years after the death of her lord, should make no inquiry about him.

But, gentlemen, if you will compare the time of Lord Altham's death with the time of kidnapping the boy you will find, I think, that there is very little, if any, weight in this observation.

Lord Altham died in November, 1727. The letter which Mrs. MacMullen swears she sent to Mrs. Heath, notifying my lord's death (and which Heath swears she communicated to my lady), bears date the 18th of that month. That letter must be some days at least going to England. On the 26th of the March following the boy appears from the "Tholsel" book to be indentured to Thomas Hendry by the name of James Hennesley, and on the 30th of April, the next month, it appears from Stevenson's book that he passed over the bar of Dublin; so that taking that to be the truth (which, I think, is liable to strong objections of improbability, that MacMullen sent that letter), there will be very little more than five months between Lord Altham's death and the transportation of the boy.

When Alice Bates appears and gives you an account of her joking with Lady Altham about her being with child, you are told by the defendant's counsel that this is highly improbable, that Lady Altham was a very haughty woman, that it is incredible she should condescend to such familiarity with a person so much her inferior.

Will it not appear to you equally improbable at least that this haughty lady should condescend to receive visits once a week, as Mrs. MacMullen tells you she did, from her—the daughter of an ale-house keeper?

It must be allowed that my lady's living with Alderman King for thirteen or fourteen months, conversing with him about her family affairs, and yet never mentioning to him her son, does, *prima facie*, carry with it a great improbability of her having at that time a lawful son.

But considering that my lord had put her away upon a suspicion (either real or pretended) of her virtue, and had aspersed her character, it might not be so prudent, nor perhaps so probable, that she would discourse with him or any other person upon the subject of child-bearing. Baron Mounteney

However, allowing this to be improbable, will it not be equally improbable that the care of communicating so material intelligence as the death of Lord Altham should be entrusted, not to this Alderman King or any other person of some tolerable figure in this town, but to such a woman as MacMullen?

These, gentlemen, are circumstances which, in my apprehension, weigh strongly against the credit of MacMullen's evidence. But taking that evidence to be true, you will consider whether the small distance of time between Lord Altham's death and the transportation does not greatly lessen the force of this argument, which has been so strongly insisted upon by the defendant's counsel, especially if you add to it the circumstances both of health and fortune in which Lady Altham appears to have been at this time.

And here, gentlemen, will come in very materially for your consideration the evidence of Mrs. Deborah Annesley, a near relation of this noble family.

She, who had before told you that her brother frequently visited my lord at Kinnea—that whenever he returned from thence, and whenever my lord visited at their house, it was their common practice to drink the health of my lord's son; that they all considered that boy as my lord's lawful son, and the future Earl of Anglesea (so that it is not fact, as you have been told, that none of the relations of the family ever heard of Lady Altham's having a son); this lady, I say, tells you that upon the death of Lord Altham she and her sister made frequent inquiries after this boy; that for some time they could learn no account of him, and at last they concluded that he was dead. Now, if it became a general reputation that he was so, then, gentlemen, though Lady Altham likewise might have made frequent inquiries after this boy (*non constat* upon the evidence whether she did or not, and she might have made several, not at this day capable of proof), and might receive an account, and give credit to it, that he was dead; and this might put a stop to any further inquiry, consistently with Lady Altham's knowledge of this boy's being her legitimate son.

These parts of the case, independent of the other, which have all been fully laid before you by my Lord Chief Baron, seem to me to have great weight in them.

You, gentlemen, will consider what stress you will lay upon

Baron Mountenay

the observations I have thrown out to you, and what light may be collected from them.

There were several other things, gentlemen, which I designed to have mentioned to you, but the fatigue which we have all undergone hath been so very great, and the time I have had for recollection so very short, that my thoughts are too much dissipated to proceed, and indeed I have already trespassed too much upon your patience, considering the great attention which you have all along given and the careful notes you have taken of the evidence. I shall, therefore, now conclude with that which I at first set out, the kidnapping and the prosecution. If the case be doubtful upon the other parts of the evidence (whether it be or not you are the proper judges), I must then leave it to your consideration whether the evidence of these two extraordinary facts may not be sufficient to determine you what verdict to give upon this occasion.

Baron Dawson

Mr. Baron Dawson—Gentlemen of the jury, my Lord Chief Baron and my brother Mounteney have summed up the evidence, and observed upon it in so judicious and clear a manner as makes any farther observations from me unnecessary. I shall therefore only require your patience for a few minutes to show you how I would consider this case if I was upon the jury, and my reasons for so doing. There are such contradictions on both sides of the question that it would not be hard to show that several witnesses on each side are not entirely to be credited. Several of the witnesses on each side not only contradict the witnesses on the other side, but also, in some instances, themselves, and therefore, independent of other things proper to be considered, one could not tell where to settle. If I was upon the jury, and to determine this question, I should lay before me and consider the story as told on each side. I should consider how far the story, on one hand, independent of the witnesses, exceeded the other in point of probability. If on either hand the story told appeared extremely improbable, I should then require from that side the strongest proof imaginable, and that because probability ought to weigh except it be contradicted by testimony not to be doubted of; and, therefore, if on either side the story should be extremely improbable, and probable on the other side, I should give my opinion on the side of probability. How far anything of this kind appears in this case will come under your consideration.

This is the longest trial ever known at the bar. This is the fifteenth day since the trial began. Trials at bar are usually determined in one day, and the policy of the law

hath taken care that no person should speak to the jury after any evidence given in Court. There is no occasion, I am persuaded, gentlemen, to remind you that anything heard out of Court is not to govern you. You are to be governed by nothing but the evidence laid before you. Baron Dawson

In the first place, the first stage is the time of the birth. You will take into your consideration the number of witnesses and their stations that swear to that birth, and also the number and station of the witnesses that swear in direct contradiction to them. If you cannot determine that question by comparing them together, you will then have recourse to the other part of the testimony, which is the reputation of the country and the persons that visited constantly at that house. You will consider the probability or improbability that a fact of this kind could have happened and the people visiting not know of it. This could hardly be in a family of less consequence than my Lord Altham's, but when you consider this family and the estate that was to fall to it, you will consider if there could be a birth and persons visiting the family not knowing of it. There have been proofs, on the one hand, laid before you of my lady's being with child, and, on the other hand, of her not being with child; either of these parties may swear false. But then you must take into your consideration if they that swear she had a child swear truth, whether it could be possible that that could be kept a secret. There was not any interest or reason that it should be kept a secret. If it was not industriously kept secret, how comes it that all those persons that visited there should never have heard of the child?

To go to positive testimony, Laffan swears positively the child was presented to several gentlemen and ladies, and often to Mrs. Lambert. Mrs. Lambert swears positively the child never was shown to her. Which is to be credited? There are several circumstances you will take into your consideration concerning the probability or improbability of the birth of this child, whether the preparations for my lady's lying-in were suitable to her rank. Whether Dunmaine, a small village, distant from any assistance necessary on such an occasion, was a proper place? Whether my Lady Altham would be easily brought to lie-in in the country, especially of her first child? These are considerations worthy of your attention. There have been many gentlemen who gave evidence to there not having been a child; they swear not only that they never saw, but that they never heard of a child. I won't enter critically into every particular period of time sworn to by them, but if in three years those persons were three or four times a-piece at Dunmaine, and they

Baron Bowes

swear truth, it will be of weight in the question whether there was a child or not. For, admitting Colonel Palliser and the other witnesses to be there four times a year, you are the judges whether it is probable that there was a child there and unknown to them. The separation is agreed on all hands to have been in the year 1716, and some little time after that the child was brought home to my Lord Altham's house. Dyer swears the child was not brought to Dunmaine in his time, but the witnesses for the plaintiff say either from the separation or soon after, and that the child continued in the house with Lord Altham till about the year 1724. You are to observe that my lord left Dunmaine about summer, 1717, the separation was in February, 1716-17, and Lord Altham came up to Parliament and after that went to Kinnea. The Parliament sat down the 27th of August, 1717. Then you will consider what has been sworn to of my lord's behaviour to this child all that time. During this period of time at Kinnea, Carrickduff, Cross Lane, and Frapper Lane, there are many witnesses on both sides that give a most contrary testimony to one another; there are witnesses on both sides that I cannot say who to disbelieve. There are many of them that I cannot disbelieve who swear to his being treated as a legitimate son. There are many of them, whom I also cannot disbelieve, who give a contrary testimony and say that he was treated as an illegitimate son; and Colonel Harman, Dr. Medlicott, and Colonel Wall gave an account of my lord's manner of calling him his bastard son. And in my apprehension, if the witnesses deserve credit, my Lord Altham did during that time treat him to some persons as his lawful son, and to others as his illegitimate son. You will consider the temper and disposition of Lord Altham and the circumstances he was in. He was a man not of prudence either as to the management of his fortune or family. You will please to consider in what manner to account for this behaviour of his, whether there may or may not be any reason for treating an illegitimate son in some companies as a legitimate son, and whether there may be at any time any reason for treating a legitimate son as an illegitimate one. A man comes into the country where he was not known before, and has a child that he had not by his wife; perhaps he may have reason for treating him as a legitimate son. A man may carry an illegitimate child abroad, and visit with him in the neighbourhood, and pass him for his legitimate child, for perhaps he might be glad that that person whom he visited should not know him to be a bastard; but a man can have no reason in my apprehension for treating a lawful son as an unlawful one. Then you will consider the

several schools the child was put to by Lord Altham. You will consider whether these schools were fit schools for my lord, even in indigent circumstances, to put his lawful son to. You will consider the consequence of my lord's being under the influence of Miss Gregory. The consequence was that this unhappy child was thrown abandoned to the world at not ten years old. Here you will consider whether a treatment of that kind bespeaks him to be his legitimate or illegitimate son. Had he been a legitimate son, surely my Lord Altham must have had reflection enough to have considered what a dishonourable action he was doing publicly. On the other hand, you will consider that the influence of Miss Gregory might well be carried to make him doubt whether this child was his or not, if the child was by an improper woman. In the next place you will consider the situation and behaviour of the mother, that is, the tender sex, and their tenderness to their children is hardly to be got the better of at any rate. Lady Altham was three years in Ross, and there is but one testimony of her seeing him then, and that is the man that swears he made him shoes. From this she comes to Dublin, and lives near my lord at the time this child is with him. It seems a little odd that she made no attempt to have this child brought to her but by Catherine O'Neill, and I submit it to you how far what she says can have weight, for she says that my lady declared she would be glad to see the child, but she was afraid the servant that brought him would lose his bread. Can such a thing as that be put in competition with the tenderness of a mother for a child? That, gentlemen, is for your consideration. Why, then, gentlemen, my lady comes to the house of Alderman King, and he tells you that for thirteen or fourteen months she frequently spoke to him of her family affairs, yet never mentions she had a child. It seems very strange. A woman, where she fancies herself injured, is mighty apt to tell the injuries done her to everybody, and to aggravate her distress by saying she was deprived of the comfort of seeing her child. This was not to be entrusted to Alderman King, but communicated to Mrs. Hodgers, whom she had never seen but once. You will consider this, gentlemen. In the year 1727 my lord died, and there can be no doubt but my lady knew it. There is not any proof of her having made any inquiry after the child; it is true my lady might have made the inquiry after the child, and it might have proved ineffectual because of his being transported so soon after; but of this there is no evidence. But how comes it she did not make the inquiry, especially where her own interest was to guide her in that case? And yet here is the force of the mother and interest joined together, and they work nothing on my Lady Altham. You will consider that the estate of this family,

Baron Dawson

Baron Bowes on failure of issue, being to go to Arthur, late Lord Anglesea, it was the interest of the mother to have made a strict inquiry after him; and yet there is a witness for the defendant, William Napper, who tells you that he had a letter of attorney from Lord Anglesea to take possession of the Ross estate, and by virtue thereof made numbers of minutes to several tenants, and no objection he ever heard made that Lord Altham ever had a son. That, gentlemen, seems a little extraordinary.

The next thing that offers, and the strength of the case for the plaintiff is, the transportation of him and the directions the defendant gave to Mr. Giffard for the prosecution of him after his return into England. You will consider, as to the transportation, whether the defendant was the occasion of it or not. If you should be of opinion he was you will consider how far that will have an effect upon you. He claimed to be the lawful son of Lord Altham; you will consider whether that might have been an inducement. If you should be of opinion that the story on each hand carries an equal degree of probability, this of the transportation should, in my apprehension, add great weight to the case of the plaintiff. If, on the other hand, you should not think them equally probable, you will consider how far the transportation will make you give credit to a fact you should otherwise think improbable. The same may be said in respect of the attempt in England in relation to the prosecution of him there. I have mentioned before that several of the witnesses on both sides cannot be very well depended upon, and therefore I think the probability or improbability of the thing may be of great weight in determining the present question.

Then Mr. Caldwell, attorney for the plaintiff, delivered to the jury the issue which they were to try. Afterwards the jury withdrew into the jury-room, and in about two hours' time they brought in their verdict.

Clerk of the Pleas—Crier, make proclamation.

Crier—Hear ye, hear ye, &c.

Clerk of the Pleas—Gentlemen, which do you find, for the plaintiff or the defendant?

Sir Thomas Taylor, foreman—We find for the plaintiff, with 6d. damages and 6d. costs.

Counsel for the Plaintiff—My lords, I pray judgment on behalf of the plaintiff, on reading this verdict, and that it may be recorded.

Clerk of the Pleas reads the verdict.

Mr. Lee, of counsel for the defendant—My lords, I hope your lordships will not now give judgment, for I humbly conceive

the plaintiff's declaration is bad, and that he can't have judgment [and he offered some matter in law in arrest of the judgment].

COURT—Gentlemen, we will adjourn to nine o'clock to-morrow morning.

The Crier accordingly adjourns the Court.

Saturday, 26th November, 1743.

COUNSEL FOR THE PLAINTIFF—My lords, we pray judgment on behalf of the plaintiff on this verdict.

COURT—Take judgment.

COUNSEL FOR THE DEFENDANT—I pray this writ of error may be received.

COURT—Allow the writ of error.

APPENDIX.

Trial of Mrs. Mary Heath.

The evidence of certain witnesses in the Trial of Mrs. Mary Heath for perjury, at the Bar of the Court of King's Bench in Ireland, on Friday, 8th February, 1744.

Mr. Thomas Higginson, sworn.

Mr. Solicitor—Mr. Higginson, pray did you know the late Lord and Lady Altham?—Yes.

Do you remember to have seen either of them, and when, in the year 1714 or 1715?—I saw Lord Altham very often; I had the honour to receive from the year 1710 Arthur Lord Altham's rents for part of his estate.

You saw my Lord Altham very often?—I saw him very often.

Do you remember to have seen either of them about the middle of April, 1715?—Yes, the middle of April, 1715, I called at Dunmaine.

How came you to call there?—I was receiver to Arthur Lord Altham, and Arthur late Earl of Anglesea.

Go on, and give an account of what you know of this family?—My lady I saw when I called at Dunmaine, my lord was not at home.

Do you know anything of her being with child?—That time I saw her I took her to be big with child.

Court—What time was that?—In the middle of April, 1715.

Mr. Solicitor—What time in April do you say?—The middle, in Easter week, 1715.

Where did you see her then?—At Dunmaine.

Inform the Court and jury what look or appearance she had of being with child?—She appeared to be big with child to me, and towards the last month of her time.

Tell us wherefore it is that you have made yourself sure it was then?—I had a pocket-book in which I kept my memorandums; I was receiving rents for the Earl of Anglesea, and I sent my son to receive the rents of the Nanny-water estate for Lord Altham; I knew he would be at home with the money, and I called there for Lord Altham to send one to Enniscorthy with me for the money.

[The witness's voice being weak, Mr. Smith, an officer of the Court, is directed to repeat what he should say.]

Mr. Smith—Tell what you say, sentence by sentence, and I will repeat it.

Appendix.

Hancock—I called to see if Lord Altham was at home, to send one with me to Enniscorthy, to get some money for himself.

Did you see my lady or my lord at the time?—My lady only.

How can you be particular concerning the time of your being at Dunmaine?—Because the days that I received Lord Anglesea's rents I had it entered in my pocket-book, and I gave the book to the Prime Serjeant Malone at the last trial.

What were the contents of that book?—Lord Anglesea's receipts.

You say Lady Altham looked like a woman big with child?—She did.

What conversation had you with her then?—Very little, only that I asked for my lord, and told her what I called for, for I dared not go into the house, for if I had Lord Anglesea would have turned me out of the receipts of his rents.

Tell what passed between my lady and you?—I told her I called to get my lord to send one with me to Enniscorthy, and my lady came down and made me drink, and I drank a good deliverance to her ladyship in two glasses of white wine.

Who did you see with my lady?—The maid was there, but I do not know her name.

Now, tell us how did you dispose of yourself after you left Dunmaine?—I went to Enniscorthy, and dined with Major Rogers that day there.

Where did you go from thence?—To a friend's house in Wexford early next morning, Thursday morning.

Recollect the day you were at Dunmaine?—I was there on Thursday going, and Tuesday coming back.

What day did you go from Dunmaine to Enniscorthy?—I came from Dunmaine to Enniscorthy on Tuesday.

How long did you stay at Wexford then?—Not above an hour, I believe; we had but one pint of wine.

Did you see Lord Altham at that season?—Yes, he gave me the receipt.

Did you see my lady there?—No, I did not, nor hear of her.

Do you believe if she had been there you would not have known it? Could she be there and you not see her?—She might be there for me.

Pray, sir, you say you were receiver to my Lord Anglesea. Did there come any account to the Earl of Anglesea of the birth of a child?—Several of Ross tenants did not come to Lord Anglesea in July——

(Cross-examination.)

Mr. Le Hunte—Pray, sir, do not you say that you were at Dunmaine on Easter Tuesday?—I was there on Thursday and Tuesday.

Were you there on Easter Tuesday?—I was.

What year was it?—By my books, on Easter Tuesday, in the year 1715.

Where were you on the Monday before?—I believe I was at Mr. Giffard's. I was at Houghton's; I know I was in that neighbourhood on Easter Monday.

Upon your oath, sir, where were you on Easter Monday?—I believe I was at Mr. Thomas Houghton's on Easter Monday.

How near is that to Dunmaine?—I believe four or five miles.

Why are you so certain of being at Dunmaine and at Houghton's on Easter Monday and Tuesday?—Those were the days I received money, and they were entered in my book; that is the reason of my certainty.

Do you know a place called Peppard's Castle?—I do know it.

How far from Dunmaine is Peppard's Castle?—Which way would you have me go?

The common road. How many miles distant is it?—I believe 16 miles.

Where were you upon Easter Sunday?—I believe at Clomines.

How near is that to Dunmaine?—Four or five miles; I do not know well.

How far is Clomines from Peppard's Castle?—I believe as far as Dunmaine it cannot be less than 16 miles.

Look at that paper and see if it be your handwriting. Is that your name?—I believe it is.

When you gave receipts did you date them on the days the tenants paid you the money?—Some I did and some I did not.

Explain yourself?—When I would go abroad I would leave receipts drawn according to the days the tenants promised to pay their rents, some with my wife, and some with my son, and some with Timothy Murphy that received for me.

Is that all your handwriting?—I believe it is

Mr. La Hunte—I desire that paper may be read against himself.

Clerk of the Crown—"Received from Mr. William White now and formerly the sum of twenty-five pounds ster., in full his last Michaelmas rent, due out of Peppard's Castle, &c., to the right honourable Arthur Earl of Anglesea, received by his lops order this 18th April, 1715. £25. Tho. Higginson."

Court—That is Easter Monday that year?

Higginson—I will tell your lordship how that was. I was to pay Major Rogers money for timber for my Lord Anglesea, and I left my son the receipt to get the money, who was to meet me there with it.

Is the date your own hand?—Yes, I believe it is.

And did you date receipts before you received the money?—Yes, very often.

Mr. La Hunte—What time did you enter this receipt in your book?—When I came home again.

When was that?—I entered it on Wednesday, when he brought me the money to Enniscorthy.

What money did he bring?—He brought me sixty odd pounds; I gave him eight receipts to call upon the people with them, and I got the money on Wednesday.

When did you enter those receipts in your book?—I believe I entered them before I went from home.

How so?—Because they promised me the payment.

Did you draw this receipt at the time that it bears date?—I gave this receipt to Tim Murphy or my son before I went away, and they told me they would be there that day with the money.

See if this be your book and handwriting?—It is.

Appendix.

Was this book kept by you?—It was. I lent it to Mr. Wilson.
Is that entry your handwriting?—It is my handwriting.
When was it entered?—It was entered when I came back.
Mr. Mark Weyte reads the title, viz.—

Peppard's Castle	Mr. Williamite White	Debtr.	Year Month and Day 1715	Contra	—— is ——	Credr.
			March 28	2 Bills		4 10
			April 18	Dit. in full Michaelmas 1714		11 17 8

Mr. Le Hunte—Where was this book kept?—When John Wilson came to receive the rents of Lord Anglesea after me I lent it to him.

Court—Can you now say that it was the 18th of April, Easter Tuesday, that you were at Dunmaine, since it appears by your book you entered receipts of that date elsewhere?—I left eight receipts for my son and Murphy to give the people that paid the money.

How came you to enter them the 15th and 18th?—Because they were to go there them days.

Since your book shows your handwriting at another place, the time you say you were at Dunmaine, can you, from any other circumstance, recollect that it was Tuesday, the 18th of April, that you were at Dunmaine?—I believe it was Tuesday, the 18th, by my pocket-book.

Court—See and get an almanac for the year 1715. Does your pocket-book and this book contain the same things?—The pocket-book is of different things from this book.

Mr. Le Hunte—Did not you swear on the trial in the Exchequer that you received £4 from Mr. Houghton the day before you went to Dunmaine?—I believe so.

What day did you receive that money?—I believe it was on Monday morning.

What was the denomination that rent was paid for?—I do not know indeed. I know no denomination now, but only Ballysop and Dunmaine.

Did not you swear that you received from Mr. Giffard of Ballysop £10 on Tuesday?—Yes, I did.

Was not that the day you went to Dunmaine?—Yes, I believe I did that morning.

Did not you say you received from Patrick Sutton £20 the day before?—I received some on Friday and Saturday, and wanted forty shillings, and they sent it after me on Monday.

Did you swear or did you not that you received Sutton's money on Monday?—I wanted about forty shillings, and I got that on Monday or Tuesday following.

Upon your oath, sir, did you not swear that you received £20 from Colonel Sutton on Monday?—I do not know whether I did or no. I did receive £20 in all, but I said then, as I say now, that there was forty shillings behind, and he sent it after me on Monday.

What day did you receive the money from Mr. Giffard?—On Monday, I believe.

What did you receive the money from Mr. Sutton for?—It was for the rent of Clomines.

Look at that book now. Is that your handwriting?—The upper part is; that is my handwriting.

And whose is the other?—That is my son's. I told Counsellor Ford so before, at Wexford.

Closeness	Col. Wallis Arrears	is	Debtor	Year Month and Day 1713	Contra	is	Creditor			
				November 20	Per Higginson's Account			226	14	11½
	(His own writing)			1714 June 17th	Do.			48	00	00
					Do.			52	00	00
	(His son's writing)			1715 April 8th	Mr. Gifford			80	00	00
					(His own writing)			406	14	11½

Were you present at the time it was entered?—No, he was at Ross, and Joe White, the merchant, gave him a bill for £30, and I allowed this as cash. The tenants all received it as cash; they had a share in it, and I allowed it as cash.

Why did not you make your entries in your book at that period of time?—I had not that book with me. I had lent it to John Wilson.

Was the money paid by the tenants at the time set down in the book?—That was the bill that every one of them had a share in.

Was the £30 received on the 5th April?—The bill was.

Did not you swear you received the £30 on Monday?—It was good £30 to me, and so I swore I received it on Monday.

Where is your pocket-book?—I have it not now.

Did not you swear upon your former examination in the Exchequer that you were agent to my Lord Anglesea from the year 1711 to the year 1717?—No, not till the year 1717. No, if it be 1717 it is wrong printed.

Upon your oath, were not you Lord Anglesea's agent in the year 1717?—I was not discharged till 1718 or 1719 for that matter, but Mr. Wilson came in before that.

Did you continue agent for my Lord Anglesea after the year 1717?—No, not that year, but I received for him in 1716.

You received in the year 1716?—I did then in several places.

Upon your oath, did you in 1717?—I cannot charge my memory; I am sure I did in 1716.

Look at this bond and see if it be your handwriting?—I did see it; it is.

Mr. Le Hunte—My lord, this bond is to show that he was discharged long before this time, and we desire it may be read.

Mr. Mark White reads part of the bond, which bears date the 26th day of December, 1715.

Mr. Le Hunte—Did you ever settle any account subsequent to the account in this book?—Yes, I did, six months after.

Mr. Solicitor—Would you be understood that that was the book you carried about with you?—No, this was the book that was left at home.

What book did you take with you commonly?—I carried a little pocket-book about me.

Mr. Recorder—When you came home to that book, did you make entries different from your pocket-book?—Some I did.

How so? Then you had no certain guide for keeping your accounts?—Whenever I was promised any money I entered it down in that book the day I expected to receive it, and left receipts with my wife or son, for I was very much abroad.

How could you enter the day before you knew you would be paid?—They would keep the receipts till they got the money.

Serjeant MARSHALL—My lord, I desire the whole conditions and all the bond may be read. Mr. Whyte read only a part of it, and I must insist upon the whole being read, to show that he might have received the rents for a year after the date thereof.

Mr. BOWDEN reads the bond as follows:—

"Know all men by these presents, that I, Thomas Higginson of Rahingurrin, in the county of Wexford, gent., am held and firmly bound unto the Right Honourable Arthur Earl of Anglesea, in the sum of £1000 sterling, lawful money of Great Britain, to be paid to the said Arthur Earl of Anglesea, or his certain attorney, executors, or administrators, to the which payment well and truly to be made I do bind myself, my executors and administrators, firmly by these presents, sealed with my seal, and dated this 25th day of December, Anno Dom. 1715."

"Whereas, the above named Arthur Earl of Anglesea did constitute and appoint the above bound Thomas Higginson to be collector and receiver of his rents, arrears of rents, revenues, duties and profits of his lordship's estate in the county of Wexford for some time past. And whereas the said Arthur Earl of Anglesea did, on the first day of May last annul and make void the said power; now, the condition of the above written obligation is such that if the said Thomas Higginson, his executors, or administrators, do and shall, on or before the 1st day of May next ensuing the date of these presents, deliver up to the said Arthur Earl of Anglesea, his heirs or assigns, a just and true account of all such rents, duties, arrears of rents, fines, issues, goods, chattels, profits and perquisites as he the said Thomas Higginson hath at any time heretofore levied or received for the use of the said earl, as his collector or receiver, and do and shall then pay or cause to be paid unto the said Arthur Earl of Anglesea, his heirs or assigns, all such sum and sums of money as shall then appear to be and remain due to the said earl, his heirs or assigns, on balancing of such accounts; and also do and shall at any time when demanded, well and truly account for, and pay unto him the said Arthur Earl of Anglesea, his heirs or assigns, any sum or sums of money that shall or may at any time or times hereafter, within the space of one year from the date above mentioned, appear to have been received by him, the said Thomas Higginson, for the use or on account of the said earl, and not accounted for with him by the said Thomas Higginson on or before the said 1st day of May next ensuing (if any such there be), that then the above obligation shall be void, or else it shall stand in full force and virtue.

"THO. HIGGINSON, 1715.

"Sealed and delivered in presence of us,

"DEN. BAIEN.

"JOHN WILSON, junior."

Serjeant MARSHALL—He had a right, it appears, to collect all the arrears that were due for a year; he had a year allowed him to gather them in.

Mr. RECORDER—The bond says, if it shall appear within the space of one year that he had received any sum or sums of money, but there is no power given him to receive any rents.

Mr. LE HUNTE—Were not you tenant to part of Arthur Lord Altham's estate?—Not at all.

Did not you hold a house from him in Ross?—I never had a house in Ross.

Who came into possession of Lord Altham's estate upon his death?—I do not know. I was not employed then.

Were you receiver to Lord Altham till his death?—No; till the year 1717 or 1718.

How far is Ballydaboy from Dunmaine?—I cannot tell.

How near is it to Peppard's Castle?—I believe within a mile.

Is that your handwriting?—Yes, I saw it before.

Look at it again. Was it entered the time it bears date?—I believe the Wednesday before I left home.

How came you to enter it then?—There was a fair to be on the 19th, and that was the reason.

Ballydaboy, &c.	Law : Nangle	is Debtr.	Year Month and Day	Contra	is	Credr.	
			1715 April 19		Ditto		1 16 6

(The bond is given to the jury.)

Serjeant MARSHALL—You will observe, gentlemen, there are two clauses in the bond; the first that he shall account for all sums received, and the next that he shall account for all sums he should receive.

COURT—Not at all; he was superseded. If you mean to produce other evidence to the same thing, I shall stop you. We have been near twelve hours in Court, and cannot adjourn.

Mr. EDMOND MALONE—And they said, my lord, they would not take up eight hours in ten, if the trial should hold no longer.

Rev. Mr. WILLIAM HERVEY, *sworn*.

Mr. MALONE—Do you remember at the time the Pretender's men were tried at the assizes of Wexford?—I remember when Mr. Walsh and Masterton were tried for enlisting men for foreign service.

Were you at that assizes?—I was there and heard the trial.

Pray, sir, can you fix the year when they were tried?—They were tried in Lent assizes, 1715.

Was it Spring assizes?—It was Lent assizes; but I believe it happened in Easter that year.

Were you in court at the trial of Walsh and Masterton?—I was in court.

Who were the judges?—My Lord Chief Justice Forster, my particular patron and friend; his brother was my tutor when I was in the college.

Appendix.

Who was the other judge?—I do not remember any other judge, but I know he was there.

Were you in court at the trial?—I was.

Then I ask you, sir, whether or no you saw my Lord Altham at that time in town?—I did. I saw him at his lodgings and at the court-house, and had discourse with him in both places, and never saw him before or since.

In what clothes was he dressed then?—To the best of my remembrance he was in black.

Were there any ladies in court at that assizes?—There were several ladies in court.

Were they of any fashion or rank in the country there?—I saw a lady of very good appearance though homely features, and I asked who she was, and I was told——

Serjeant MARSHALL—You are not to say anything you were told. You must declare nothing but what you know yourself.

Mr. HERVEY—They said it was Lady Altham.

Mr. MALONE—Did you know that lady you saw to be Lady Altham?—I am morally assured it was her.

Did you ever see her after?—I never saw her afterwards.

You saw other ladies there as well as this lady?—I did.

Did you know them?—I took notice of none but Mrs. Giffard, for she was my relation by marriage; and I had another reason why I took notice of her, which was that I have often heard her blamed——

Was Mrs. Giffard in company with that strange lady?—She was.

Do you remember any quarrel upon the account of beating a man at the assizes?—Yes, I remember it very well, and have reason to remember it.

Serjeant TINDALL—My lord, I do not see to what this examination can tend.

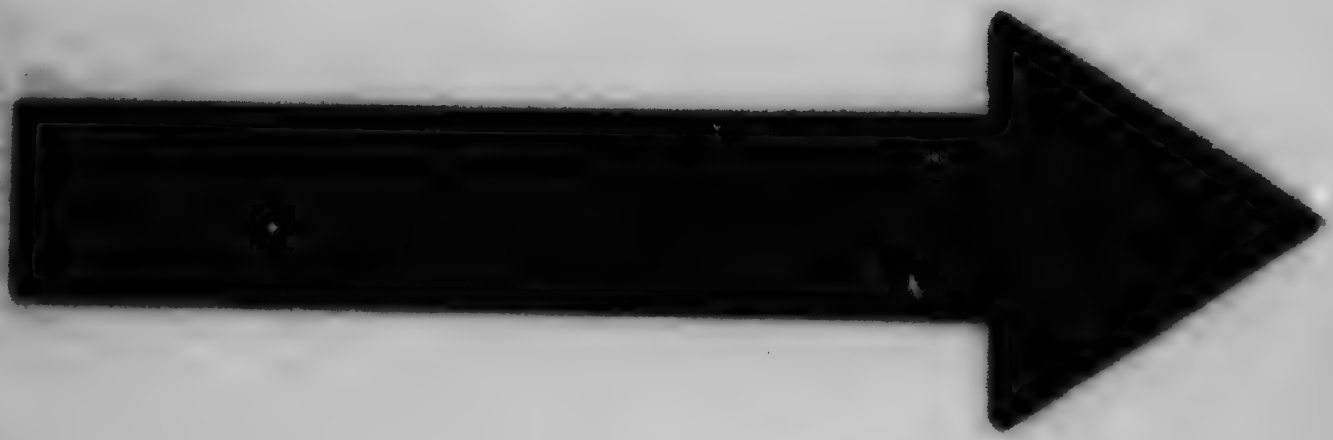
Mr. MALONE—It is in order to fix the time particularly.

COURT—Go on, sir.

Mr. HERVEY—I took a King's evidence to Wexford, one Sinclare; he had gone to France with several others, and when he came home he was afraid I would represent him to the justice of peace and have him prosecuted, to avoid which he said he would come in and make a discovery if I would get him pardoned. I said I would, and after I had him I mounted him before my portmanteau and took him to Wexford. While he was there some servants of my Lord Altham fell upon him and beat him for being an informer, and while they were beating him I catched them, and they had almost murdered him. I took them to Colonel Ram's lodgings, and we went to my Lord Altham to his lodgings and showed him the bloody condition that this fellow was in.

How did you know where my lord lodged?—I was informed that my lord and lady lodged at Mr. Sweeny's.

Go on, sir?—We went there to show my Lord Altham the treatment his servants had given this man, and my lord said he was ashamed of their behaviour; that they should be punished for it, and said they should come into Court.



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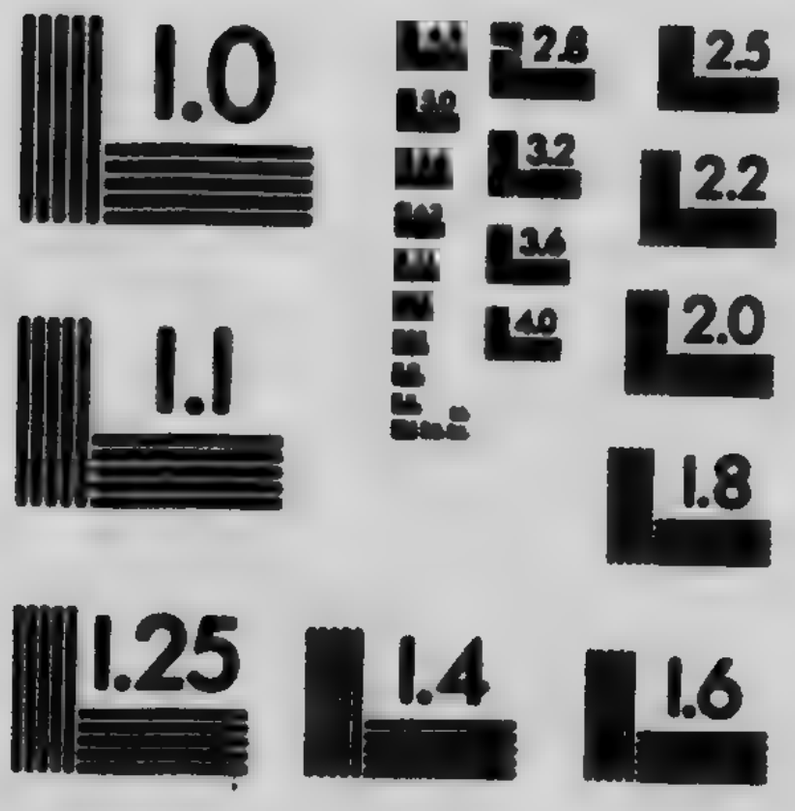

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And did they come into Court?—There came but two into Court; the rest made their escape.

Were they punished for this assault?—My Lord Chief Justice Forster was very angry, but fined them only £5.

Mr. Recorder—My lord, thus he ascertains that Lord Altham lodged at Mr. Sweeny's.

Mr. Malone—You say that you saw Mrs. Giffard in the Court-house, and that she is your relation?—Yes, her brother and I took two sisters in marriage.

Did she sit next to my Lady Altham that day?—I do not know whether she was next to her, but she was very near her.

Now, I ask you whether that lady had any signs of pregnancy or not upon her?—I took particular notice of her. She was, to the best of my remembrance, dressed in black, was a full-chested woman, and had a fine slender waist.

Did she appear to you as a woman with child?—She might be very young with child for aught I know, but there was no visible appearance of her being with child.

Mr. Harward—This evidence is founded upon a supposition that the lady he saw at Wexford was the Lady Altham; he says he was only told it was she, and cannot say it was of his own knowledge.

Mr. Hervey—I am pretty certain the lady I saw was Lady Altham. I am told, sir, that you are Counsellor Harward. Am not I to believe you are? I am told that gentleman is Counsellor Daly. I am morally assured of it, and I believe it.

(Cross-examination.)

Serjeant Marshall—Pray, sir, did you see that lady go into the Court-house that you were so particular in your observations about?

Mr. Hervey—I cannot say I did, but I saw her in Court.

Do you know Mr. Cæsar Colclough?—Yes, I do very well.

Did not he sit by that lady a great part of the time?—I cannot charge my memory. As I told you before, I took no notice of any but Mrs. Giffard.

I ask you, sir, whether Mr. Colclough was there or not?—He might be there; and I cannot say whether he was or not.

Who were the persons tried?—Jack Walsh and Mr. Masterton.

They were tried that day?—They were, sir.

Are you sure they were tried at that assizes?—I heard them both tried, and, I believe, at that assizes. Walsh was tried first.

Are you positive that they were both tried?—Indeed I have no reason to doubt but they were; they were there, and appeared there at the bar both of them.

Were they convicted or acquitted?—Acquitted. Mr. Walsh made a very good defence.

Whereabouts were you in the Court?—I was very near the judge.

Did you or did you not see Mr. Colclough there?—I cannot say I saw Mr. Colclough.

Did you see Colonel Loftus there?—I cannot say I saw Colonel Loftus.

Do you recollect any gentleman of the country that you saw there?—Why, do you believe that I was not there?

It is no matter what I believe, but can you name any one gentleman that was there?—Lawrence Esmond of Ballynastraw was there.

And you remember that Mrs. Giffard was there very positively?—I do, sir.

Now, I ask you, was not Mr. Masterton tried the summer assizes?—Indeed I do not know; I know he was in the dock then.

Did not you say you were sure he was tried that assizes?—I do not know whether he was tried then or no, but he was in the dock.

Did you see this lady anywhere else but in the Court-house?—I saw her nowhere else but there, neither before nor since.

Did she sit or stand during the time you saw her?—I saw her both sitting and standing.

Whereabouts?—Almost opposite the sheriff's box.

Did you talk to Mrs. Giffard at that time?—I did not speak to either of them.

Did you speak to her at that assizes?—I do not remember I did; but if you please I'll give the reason why I took notice of her more than another.

Give your reason?—She was a near neighbour of Lord Altham, and was the most conversant there of any others of the neighbourhood; and my lady not bearing the fairest character in the world, I heard Mrs. Giffard blamed for having such an intimacy there; and therefore when I was told this lady, that made a very good figure by her dress, was my Lady Altham, I took notice of Mrs. Giffard being in her company; and whether Mrs. Giffard knew it or not I cannot tell, but I have heard her censured for being in it. And if they had lived within 3 miles of me, as they did of her, I would not have had converse with either of them.

Mrs. Sarah Sweeny, *sworn*.

Mr. Le Hunte—Where do you live, madam?

Mrs. Sweeny—I live at Wexford.

What is your Christian name?—Sarah.

How long have you lived there?—These four or five-and-thirty years.

Pray, do you know Mr. John Masterton?—I do.

Did you know Mr. Walsh?—I did.

Do you remember that they were charged with any crime at Wexford?—I do.

When?—In the year 1715.

Did you know the late Lord or Lady Altham?—I did. I knew them both, but my lord much better than my lady.

Was it usual for you to set lodgings?—It was.

Can you recollect whether they lodged at any time, and when, in your house?—They lodged with me in the year 1715, in April.

Do you know upon what occasion, or what was a-doing in Wexford at that time?—The assizes was at that time.

Pray, madam, can you recollect how long they lodged with you,

and when they came—whether before or after the assizes?—They came just at the assizes, and they stayed no longer than the assizes held; four nights or five, I cannot tell which.

Can you tell me whether any gentlewoman came with Lady Altham to the assizes?—Yes, there did come Mrs. Giffard, and Mrs. Mary Roe, and there came Mrs. Heath.

Was Mrs. Heath a servant to any of the ladies, or whom?—She was her ladyship's woman.

Where did she lodge?—At my house, sir.

Can you be certain that it was in the spring assizes, 1715, that they were there?—I am very sure of it.

Pray, can you give any reason for that certainty?—I can give several reasons if there was an occasion.

Please to inform the Court and the jury what your reasons are?—It was in the year 1714 that I came to that house I now live in. I came to it in July, just before the Queen died, and in 1714 Mr. Sweeny was ill of a fever, and was just recovered out of it as her ladyship came to my house; he was recovered the March before she came.

When she was there did you frequently see her?—I did see her very often, sir.

Where did she generally diet in Wexford?—She dined and supped at my house.

Did she dine and sup at your table?—I dined with her at the table, and with my lord, when he dined there.

Had she any signs of breeding or being with child?—I did not perceive any, neither do I believe she was with child.

Could she have been with child then and you not know it?—If she had been with child I should have heard it.

(Cross-examination.)

Mr. Fitzgerald—You say, I think, that my lady came to lodge at your house in April, 1715?—Yes.

What particular reason have you for fixing it in April?—I tell you, in July, before the Queen died, I came to the house, and the April following she came to lodge there.

Where did you live before?—At Kenny's Hall, a little out of Wexford.

How long did you live there?—From the latter end of the year 1713 till we left it.

What particular time did you leave that hall?—In July, 1714, just before the Queen died.

Was that house, where you received Lord and Lady Altham, repaired when you took it?—We repaired it before we came there.

After you took the lease, what time did you take to repair it?—Not very long; I cannot tell how long.

Did the repairs take up three months?—I believe it might take up three months; but I was sick at that time, and do not know how long it was.

Appendix.

What time was it you took the lease?—We took the lease in the year 1714.

What time of that year?—In the beginning of 1714. I have the lease if you have a mind to see it.

Do you know a man called Nicholas Duffe?—I do.

What is he?—He was master of a vessel for my husband.

Did he live with you then?—He did not live with us then.

Was not he master of the ship at that time?—He quitted that employment before I was married to Mr. Sweeny. He went master before for him.

Did he live in your house in April, 1715?—No, he did not.

Did he live with you when you took the house and you were sick?—He was at sea in 1714, when I was ill of the fever, and he came home at that time in the year 1714, and was not employed after, for my husband parted with the ship.

You say he was not in April, 1715, in your house?—Not to live with me.

Was not he then master of your husband's ship?—He was not in that employ; we were building a ship then.

Was not he in the town of Wexford in the year 1715?—I do not know but he might.

Do you know Captain Maxwell?—I do, very well.

Do you know his wife?—I do. I am very well acquainted with her.

Did they not visit you in April, 1715?—I cannot tell in what year. I do not know but she might be there, and they lived in the house where I lived in before.

Do you know one David Conolly?—I do not know any such body as Conolly. I know one David Connell.

Was he a servant of your's at that time?—He was not a servant, but in and out with me.

How long did he live with you?—Really, I cannot tell.

What did you think of that man; what is his character?—Why, really, I never thought it worth my while to inquire. He did my business well enough.

Did you and Mrs. Maxwell visit frequently?—Yes, we did, and I was godmother to one of her children.

What is Mrs. Roe's name now?—Mrs. Crumpton.

Did you declare to any person of your acquaintance in Wexford that you were not sure when Lady Altham was at your house?—I do not know whether I did so or no; to be sure at the beginning I could not recollect it, but after, when I considered about it, I found it out.

Did she never lodge with you but once?—Never but once.

Was she never there at the water-drinking season?—She never was.

And that time she lodged with you was at the assizes?—It was at that time.

Mr. SMITH—This lady has mentioned that her sister, who is now Mrs. Crumpton, came to Wexford at that time in company with Lady Altham. She was then called Roe, my lord. We shall now produce her to the same point.

COURT—Do not you think you have proved it already without producing her?

Mr. DALY—I would produce Mrs. Giffard and no more to that fact, I own it.

COURT—Call Mrs. Giffard.

JOHN TENCH, Esq., *sworn.*

Mr. SPRING—Pray, sir, inform the Court and the jury whether you had any knowledge of Mrs. Pigot of Tyntern?

Mr. TENCH—I had, sir.

You did know her?—I knew her, sir.

Was any friend of yours concerned for her in her affairs?—My father received her rents for above thirty years.

Who was concerned in the management of her affairs and receipt of her rents in the year 1715?—My father was.

Can you give the Court and the jury an account where Mrs. Pigot was in the month of November, 1714, and from thence down to the latter end of the year 1716?—From my own knowledge I do not know where she was, but from letters I can tell you.

Have you any reason to enable you to form a judgment where Mr. Tench was in——

COURT—Where was Mrs. Pigot in November, 1714?—Of my own knowledge I cannot tell where she was.

Mr. SPRING—Are your father's accounts and papers and letters come to your hands?—I have them, sir.

Have you any accounts relating to Mrs. Pigot's affairs in the years 1714, 1715, or 1716 in his handwriting?—I have, in the year 1715.

COURT—It is proper to ask him if he has such; but what then? That won't prove where Mrs. Pigot was.

Mr. SPRING—My lord, my next question is whether he has any letters of Mrs. Pigot to his father?

COURT—That will not do. If she was produced here as a witness, you might produce her letters to confront her. We are not now upon the proof of similitude of hands.

Mr. SPRING—Were you at Tyntern in the year 1714?—I cannot tell where I was in 1714.

Were you there in the year 1715?—I was there in 1715.

Were you in May, 1715?—Indeed, sir, I cannot tell.

JAMES WALSH, *sworn.*

Mr. EDMUND MALONE—We produce this witness, my lord, to show that Mrs. Pigot was in another country, at another place, attending her husband, who broke his leg, at the time they pretend she was godmother to this child.

Mr. EDMUND MALONE—Are you a married man?

JAMES WALSH—Yes, sir.

In what family did your wife live when you married her?—In the family of Mrs. Pigot.

What Mrs. Pigot, sir?—Mrs. Pigot of Tyntern.

Appendix.

Did you know Counsellor Pigot?—I did, sir, very well.

I ask you, then, if you recollect at any time when any and what accident or hurt happened to him?—I do, sir.

Tell it?—Mrs. Pigot went to Dublin in 1714, about November or December, I am not sure in what month, and some time after Christmas Mr. Pigot went to London, and he came back again.

Was it in January, 1714-1715, that he went to London?—I believe thereabout.

Well, go on?—He came back, I believe, about March, or thereabouts, and he went to his estate in the county of Limerick, and happened to break his leg or thigh in the year, 1715.

What time in the year 1715?—April, I believe, or March, or thereabouts.

At what place did he break his leg?—They tell me, sir, at Glengoole; I was not with him there.

How do you know he broke his leg?—I knew, because Mrs. Pigot went from Dublin to him.

What time did she go to him?—She went about April, 1715.

Where was she to go to?—Either to the county of Tipperary or county of Kilkenny, I cannot tell which.

How soon after he went to the county of Limerick did she leave Dublin?—I cannot tell exactly how soon she left Dublin, but she stayed there till she brought Mr. Pigot home.

To what place?—To her house upon Arran's Quay.

What time was that?—I cannot exactly tell the time; I believe it was in the year 1715.

How long might she have stayed away with him?—I cannot tell exactly. I believe it was more than a month. I believe it was two months. I do not exactly know.

When they came to Dublin how long did they continue in Dublin without going into the country again?—They stayed in Dublin till she buried Mr. Pigot, in 1717.

Are you positive that she remained all that time in Dublin without going anywhere to the county of Wexford?—Yes, sir. I can say that safely, and that she went home in the year 1717, and sent me back to Dublin to make a monument for Mr. Pigot at the outside of St. Paul's Church.

How long after their return to Dublin was it that he died?—He died in the year 1717.

COURT—Are you sure that Mrs. Pigot was not at Tyntern in the year 1715?—She was not, upon my oath.

Nor in the county of Wexford?—Indeed she was not, my lord.

How many years did you live with her in all?—I cannot tell how many years, but I lived with her from his death to her death.

And you are sure she was not in the county of Wexford from the time she came to Dublin till she buried him?—I am sure she was not.

(Cross-examination.)

Mr. HARWARD—Pray, sir, where were you in Christmas, 1714?—In Dublin, sir.

Where did you live in Dublin?—On Arran's Quay.

Were you a housekeeper there?—I generally kept Mr. Pigot's house when they were in the country, but that year I did not.

Did you keep his house in Christmas, 1714?—I did not, sir.

Where were you then?—On Arran's Quay.

Where were you in the beginning of March, 1714?—I was in Dublin then.

Where in Dublin?—In lodgings of my own.

Where were you May-day, 1715?—In Dublin, Sir.

Are you sure you were?—I was indeed, sir.

Where in midsummer, 1715?—In Dublin.

Now, I ask you upon your oath, was Mr. Pigot or Mrs. Pigot in their house at Dublin in the beginning of March, 1714?—No, they did not come to Dublin till November, 1714.

Where was Mrs. Pigot in March, 1714?—In the county of Wexford.

COURT—Do you mean March, 1713-14, or March, 1714-15?—In March, 1714-15 she was in Dublin.

Where was she in March, 1713-14?—I cannot tell, my lord. I believe in the county of Wexford.

Mr. HARWARD—Where was Mr. Pigot the 1st of May, 1715?—I cannot tell you whether in Dublin or that he was sick where he got his hurt.

Can you say, upon your oath, where he was the 1st of May, 1715?—Indeed, I am not sure whether he was in Dublin or whether he was where he broke his limb.

Now, friend, where was Mrs. Pigot when the great eclipse was?—I believe she was with her husband where he broke his leg.

Were you in the county of Tipperary at the time of the great eclipse?—I was not.

Where was she at that time?—I suppose she was with Mr. Pigot.

Don't be supposing with me. You know you ought to tell nothing but what you know. Do you know where she was at the eclipse?—She was, and I take it upon my oath, she was where Mr. Pigot broke his thigh.

Where was that?—In the county, I believe, of Tipperary.

How do you know that she was not in the county of Wexford?—Because I know she was not.

Were not you in summer, 1715, in Dublin?—I was, part of the summer, 1715.

How do you know that she was where her husband lay ill at the time of the eclipse?—I know it very well. She was with Mr. Pigot where he broke his leg.

Did you see her with him?—No, I did not.

Why will you swear then she was with him?—Why, because I am sure of it.

How are you sure of it?—She told me she was going to him, I knew that she went there, and we all knew that she went there.

Have you any other reasons for being so positive?—There are letters from under her hand, giving an account that she was there.

What letters?—To her agent, Captain Tench.

Pray, now then, is not that the reason that you know she was there?—It is only one reason.

Tell another reason?—Why, I am sure she was there, and all that were along with her told me so.

Do you know of your own knowledge where she was?—No.

COURT—Did you see Mr. Pigot when he came to Dublin?—I did.

In what condition did he then appear to you?—He appeared as if he had a leg broke, and was very bad.

COURT (to the jury)—The witness says he saw Mrs. Pigot go down to her husband, and saw them return together.

Mr. RECORDER—Where he swears that she went to her husband at a certain time, that she said she was going to her husband, and that he saw her come back with him, with his broken leg, it is as full evidence as is necessary.

Mrs. PENELOPE HALPEN, *sworn*.

Mr. LEE—What was your maiden name?

Mrs. HALPEN—Hunt, sir.

Whose daughter are you?—Daughter to John Hunt of Glangoole, near Killenaule, in the county of Tipperary.

Where did he live in the years 1714, 1715, and 1716?—He lived there, sir.

Do you remember the eclipse of the sun?—I do.

Where were you at that time?—I was at my father's house, then.

Were you acquainted with Counsellor Pigot and his wife?—I was.

What was the occasion of your being acquainted with them?—He broke his thigh near my father's house, and came and lay there till he was cured.

When was that?—In the year that the eclipse happened.

Was Mrs. Pigot there?—She was there at the time of the eclipse.

How long did she stay after the eclipse?—I cannot tell indeed.

How long was she there before?—I cannot tell indeed.

Was she a fortnight, or a month, or how long?—I cannot tell how many days.

Who came there first, he or she?—He came first.

How long was he there before she came?—He was a few days before she came.

Who came with her?—Mrs. Wallace.

In what state of health was he?—He was in his bed with that broken leg.

How long did he keep his bed?—I cannot tell how long he kept it; whether a month or six weeks I cannot tell.

COURT—How long did his wife stay with him?—I believe more than a month.

Mr. LEE—Were they visited by anybody while they stayed there?—By several.

Can you recollect any one that visited them?—Mr. Cæsar Colclough was there, whether to pay him a visit or not I cannot tell, but I saw him there.

Did they leave your father's house together?—They did, to the best of my memory and knowledge.

Where did they go to from your father's house?—I cannot tell indeed.

COURT—Did they come to your father's before or after the great eclipse?—Before.

Was Mrs. Pigot there before the great eclipse?—She was, indeed.

(Cross-examination.)

Serjeant TISDALL—Can you be positive of the time that she came to your father's house?—I cannot tell what time.

Can you say whether she was there at the time of this eclipse?—Yes.

Are you sure she was?—I am sure she was.

Was any person with her at that time?—Mrs. Wallace and she were there.

Have you any particular reason for being so certain?—Yes, sir. I was in the garden when the eclipse happened, and I called Mrs. Wallace out to the garden to look at the eclipse with me.

When was the eclipse?—I cannot tell, sir.

How long after the eclipse did Mrs. Pigot stay?—I cannot tell indeed.

How long did she come before it?—Nor how long before she came.

CÆSAR COLCLOUGH, Esq., *sworn*.

Serjeant TISDALL—Were you at the spring assizes of Wexford in the year 1715?

CÆSAR COLCLOUGH—I was sir.

Did you see Lady Altham or Mrs. Giffard there?—I did not that I know of.

Were you in the Court-house when the Pretender's men were tried?—I was.

Pray, sir, were Lady Altham and Mrs. Giffard there?—To the best of my knowledge they were not.

Did you sit by them at those trials?—I did not, sir.

Pray, sir, did you hand either of them into Court?—I handed neither of them into Court, by the virtue of my oath.

Did you attend the whole trial?—I did, and was there before and after.

You were acquainted with Mr. Pigot, I presume?—What Pigot?

Counsellor Pigot, that was married to Mrs. Pigot of Tyntern?—Yes, he was married to my relation.

Can you say where he was in spring, 1715?—To the best of my knowledge, he was then in England.

Do you remember his breaking his leg?—I do, sir. I remember he broke it at Glangoole, in the county of Tipperary.

Pray, sir, what year was that?—In the year 1716, to the best of my knowledge.

Appendix.

Did you go to the county of Tipperary to see him? I was in town here when he broke his leg, and my cousin Pigot wrote to me. She had a jointure upon that estate, and wrote to me that I should come——

Mr. DALY—I must object to this evidence Mr. Colclough is going into. Those letters, sir, that you received from Mrs. Pigot are not evidence.

Serjeant TISDALL—Do you know Dennis Redmond?—I do.

Pray, sir, what character does he bear? Is he a man to be credited upon oath?—Upon my word, I believe he is to be credited upon his oath. If you will ask me for my reasons I will give them to you.

What is his general character?—He has as good a character as any man of his abilities that I know of in the world. I have known him these twenty years.

Pray, sir, do you know when Counsellor Pigot died?—I believe in the year 1719, or thereabouts. He was buried in St. Paul's Church. The time of his death is on his tomb there. I believe it was 1718 or 1719, or thereabouts. I am not certain.

COURT—Do you know whether Mrs. Pigot went to her husband when he broke his leg?—She did; and stayed with him till he came to Dublin.

Do you remember what year it was?—It was in the year 1716, as near as I can recollect.

(Cross-examination.)

Mr. RECORDER—Can you swear that Lady Altham was not at the assizes in the year 1715?—I can, as positively as I can swear anything in the world.

Can you, that she was not at the assizes?—I can, that she was not in the Court.

Can you swear that she was not in the town?—I cannot take upon me to swear that she was not in the town.

Can you swear that Mr. Pigot did not break his leg in the year 1715?—I can, to the best of my memory.

But can you positively swear that he did not break his leg in the year 1715?—I can swear that it was not in the spring of 1715, because I was at the Wexford assizes, and my cousin wrote to me to come to her.

Where was she?—She was at Glangoole.

At whose house there?—At one Hunt's; it was a thatched house.

Do you remember Penelope Hunt, a daughter there?—I cannot tell. I might see women there, but did not take such notice as to remember them.

Do not you believe that Mr. Hunt's family knew when Mr. Pigot broke his leg? Was not it broke near them?—Upon my word, sir, I do not believe they knew better than I, because I was directed by my cousin to come down, and I did; and I found her there, and surgeons setting his leg, and I am sure it was the year 1716.

Where was Mrs. Pigot in the year 1715?—She was in the winter,

1714, I am positive that she was at Tynten, and she seldom left it till towards May, or thereabouts.

Do you know James Walsh?—He did not live with her then.

Did not he live with her in the year 1715?—No, sir, nor his wife neither.

Where did they live?—They lived in town, or somewhere else, but not in our family.

Was not he an attendant of the family at that time?—No, sir, I believe he was then a doorkeeper to the playhouse.

Upon your oath, do you know that of your own knowledge?—I do know it so far, as I had it from his own mouth, upon my oath, that he was a doorkeeper at the playhouse.

How long before that was he in their service?—He had not been in the service before.

Was not he in the service at all?—He was afterwards, but he was not in the service at the time Mr. Pigot broke his leg at all.

JURY—Was Lord Altham at the assizes of Wexford in 1715?—I do not recollect anything about him at all. I was told he was, but he was a man taken very little notice of.

Do you know whether he was in Court or not at the trial?—I do not know whether he was in Court or not.

Mr. RECORDER—Do you remember where you were at the time of the eclipse?—I was in the county of Wexford; I was hunting on the mountain of Forth at the very instant of the eclipse.

Did you or did you not see Lord Altham at Wexford assizes?—I did not see him there, to the best of my knowledge.

Recollect, and say upon your oath, whether you did or not?—I do not recollect. I cannot say I did not see him or that I did, upon my oath.

JOHN CLIFFE, Esq; *sworn.*

Mr. BRADSTREET—My lord, this is the evidence that I have already opened.

What is become of your father?

CLIFFE—Dead.

What profession was he of?—A lawyer at the bar.

Do you remember where your father was in May and June, 1715?—I cannot take upon me to say where he was; he was in this kingdom, but whether in country or town I cannot take upon me to say from my own memory.

Where were you at that time?—I believe I was at the college.

Pray, recollect and consider now where your father was in those months?—I cannot take upon me to say, from my memory, where he was in May, 1715.

Where do you say you yourself were at that time?—I was in the college at that time.

Did your father attend the terms regularly at that time or not?—I believe he did; but I cannot take upon me to say that I remember his keeping terms regularly. I believe he did.

Mr. BRADSTREET—It appears to your lordship that Mr. Cliffe was a

lawyer at the bar. Now, we are to falsify the testimony of some witnesses produced on the other side, who swear he was god-father to this child, and therefore I hope we shall be at liberty to show some rules of the Court, to prove that Mr. Cliffe was here in May and June in the year 1715.

Serjeant TINDALL—I desire to know first whether you have other questions to ask the witness.

Mr. BRADSTREET—My lord, I remember when the testimony of a person was defeated by showing that the name of a lawyer was to a certain bill. He said that the lawyer was dead before that time; the record was produced, and his name was at the record in the cause of Reynolds and Sandys. We produce this witness to show that those witnesses who swore his father was godfather to my Lord Altham's child swear false; cannot we, in addition to his testimony, show the rules of the several Courts that his father made motions in at that time?

Mr. MACMANUS—My lord, I only get up to answer Mr. Bradstreet. I do apprehend that a bill in Chancery is not evidence, and the reason is because any man may file a bill in the name of another; and therefore unless you can show some proceedings have been had upon it, you cannot produce it in evidence. The same rule will hold in a cursory motion in Court, which may be made by one person and have another's name to it.

Mr. DALY—It is never done on the equity side; it is always moved in Court publicly.

COURT—I think it must appear who the counsel is that makes the motion.

Mr. MACMANUS—The attorney is the person to whom you must give notice, and is answerable for all the proceedings; the lawyer's name may be, and often is, mistaken by the officer of the Court, it not being material what lawyer moves.

COURT—The question is, whether attested copies of the acts of a Court of record may not be produced, proved, and given in evidence to falsify a witness, to show that a person sworn at a certain time to be in one place was then at another?

Mr. DALY—The indenture of a fine is read against a man every day.

Mr. SOLICITOR—By Act of Parliament.

Mr. DALY—It is not made evidence by Act of Parliament.

COURT—Put the case distinctly.

Mr. BRADSTREET—I say, my lord, I put it thus. After the evidence of this gentleman, his father appearing to be a lawyer at the bar, and after the evidence that has been given on the other side of his being godfather to a child at Dunmaine at such a time, I offer these rules of his on motion to show that he was not at Dunmaine at that time, but in these Courts, and I instanced the case of Reynolds and Sandys for a precedent.

Mr. ROBINS—Are they litigated motions?

Mr. BRADSTREET—They are litigated, and hearings and open pleadings.

The Annesley Case.

Mr. THOMAS BOURK, *sworn*.

Mr. BRADSTREET—What is that in your hand?

THOMAS BOURK—Rules in the Court of Exchequer in Easter term, 1715.

Are they all out of that Court?—They are, sir.

Are they true copies?—They are.

Serjeant TISDALL—I believe it is an established rule in evidence that the greatest certainty must be had that the nature of the thing to be proved will admit of. This is evidence of no sort of certainty, because it depends upon a person not on his oath, and because he incurs no penalty by falsifying the name of the lawyer. He is not upon his oath not to put the name of the lawyer to the record, and it is no more than a falsifying evidence; and besides, records can be produced as evidence between the parties to them.

Mr. MACMANUS—I apprehend it no sort of evidence at all.

Mr. BRADSTREET—What I apprehend is this, that this is evidence which is contradictory to the evidence that they have produced to this point. Here are motions that have been litigated, that have not passed, of course; but I say they have litigated, so that it is to be presumed that he was litigating these matters; and if so, it is impossible he could be at Dunmaine at that time. And as such, I hope, is good proof, and especially since he is dead.

COURT—I think it may be read to contradict a witness; and I know that the officer is so far from being permitted to do this thing of falsifying a name that he is under a great penalty for it.

Mr. BRADSTREET—The register is answerable, though committed by the deputy.

COURT—I think it may be read in contradiction to the witnesses.

Mr. MACMANUS—Your lordship is going to establish a rule that may be of dangerous consequence.

COURT—I am not going to settle a rule, but I only tell you what I think is and ought to be allowed as evidence. The Journals of both Houses of Parliament have been produced in evidence.

Mr. WALSH—I beg leave to consider this——

COURT—Read the notes and orders.

Mr. WHYTE (reads)—This is the 5th of May, 1715.

"*Powell* v. *Goodwin Ex. of Goodwin.*

"Mr. Cliffe *pro* Q. prays interest for the 246*l* which the defendant's testator received since they were paid the mortgage money.

"Mr. BALY—I do not oppose plaintiff's having a decree for the money, but they move for interest, and I am surprised at their demanding of interest.

"CUR.—Take a decree for the money reported, and interest for the money reported from the time the report was confirmed, and take an injunction forthwith to be put in possession, and take a decree for the rent that fell due the 25th of March last."

COURT—He must be personally in Court at that motion.

Mr. WHYTE—The next is the 6th of May, 1715.

Appendix.

"*Bermingham et al.* v. *Lord Shelburne.*

"Mr. Cliffe *pro* Q. moves on the last notes for putting off the giving of the judgment of the Court on affidavit."

The next is the 9th of May, 1715.

"*Lawless* v. *Shee.*

"Mr. Cliffe *pro* Q. moves on the last order for putting off the hearing a week."

The next is the 11th of May, 1715.

"*Bermingham et al.* v. *Lord Shelburne.*

"Mr. Cliffe prays a day to speak to this matter."

The next is the 12th of May, 1715.

"*Archer* v. *Rogers.*

"Mr. Cliffe *pro* D. moves for time to answer personal interrogatories as to several books, in regard the books are very large, and produces an affidavit of this matter."

The next is the 13th of May, 1715.

"*Wattson* v. *Butler.*

"Mr. Cliffe *pro* D. moves for to dissolve the injunction."

The next is the 14th of May, 1715.

"*White et ux.* v. *Gale et al.*

"Mr. Cliffe *pro* Q. moves on the notes upon the hearing."

The next is the 31st of May, 1715.

"*Thomas White* v. *David Dunbarr.*

"Mr. Cliffe opens the defendant's answer."

The next is the 1st of June, 1715.

"*Archer* v. *Rogers.*

"Mr. Cliffe *pro* D. the plaintiff never demanded any custom for timber these 14 years."

The next is the 18th June, 1715.

"*Bermingham* v. *Lord Shelburne.*

"Mr. Cliffe *pro* Q. moves on the order for liberty to read the bill and answer in the cause of Stewart against the Lord Shelburne."

The next is the 23rd of June, 1715.

"*King* v. *Gore et al.*

"Mr. Cliffe *pro* D. moves on affidavit for a commission to examine."

The next is the 25th of June, 1715.

"*Bermingham et al.* v. *Lord Shelburne.*

"Mr. Cliffe *pro Q. Stewart et al.* have a decree against *Lord Shelburne, Evans et al.*, and they have a decree for the 29,503, and also for the 21,032 acres, and on the hearing of this cause the bill of Stewart and others and the Lord Shelburne's answer was offered to be read, but the Court has not yet read that bill and answer; prays that bill and answer may be read, before the bill is dismissed."

Mr. BRADSTREET—How many of your name were at the bar in the year 1715?

Mr. CLIFFE—I know of no person of that name but my father.

Did you ever attend the Courts?—I did not, sir.

Did you know Mr. Anthony Colclough, sir?—Yes.

Of what religion was he?—He was reputed a Papist.

Is he alive or dead?—I have heard that he is dead.

Did not he die a Papist?—He was reputed a Papist during his life.

(Cross-examination.)

Mr. MACMANUS—Did you attend the terms in the year 1715 or 1716?—I did not attend in 1715 or 1716.

Was your father the only person of the name that professed the law?—There might be another, but I never heard of any.

Mr. WALSH—It has not been taken notice of in what terms these motions have been made. Here is a chasm of about a fortnight between the first and last motion, and there is so between the two terms. The first rule is on the 5th of May, the last the 25th of June, so that it must be in two terms that they were made.

COURT—So it was.

Mr. WALSH—Well, then there was a short vacation, when he might have been in the country, and stood godfather to the child.

COURT—But you will consider one of the witnesses said the christening was four or five weeks, and another three or four weeks after the birth.

Mr. JOHN MASTERTON, *sworn*.

Serjeant TISDALL—Were you at the assizes of Wexford in spring, 1715?

JOHN MASTERTON—I was, sir.

Pray, sir, were you arraigned there?—I was.

Can you say whether there was any lady at the Court-house the day you were arraigned?—There were some gentlewomen there, but I know of no lady.

Did you take notice of any of them?—There were two aunts of mine, and a sister of mine, and two cousins-german.

Who are they? Name them?—My aunt Swords, my aunt Talbot, my sister Colclough, and my aunt Talbot's two daughters.

COURT—Did you know Lady Altham then?—I did.

Did you see her in the Court-house that day?—I take it upon me, to the best of my knowledge, to say that I did not see her.

Do you know Mrs. Anne Giffard?—I did know her formerly, but have not seen her since the last time I saw her at Wexford.

Did you see her in Court?—To the best of my knowledge she was not there.

Was she in Wexford at that assizes?—If she was she was not in Court.

How do you know?—Because I did not see her.

And might not she be there for all that?—She might be in disguise, may be.

Would you know her now if you saw her?—I do not believe I would, for I live very remote from that part of the country, and have not seen her a long time.

Might not she be there and you not see her?—Not, except she kept behind backs.

Serjeant TISDALL—Did you know Lady Altham before that assizes?—I have seen her before at Ross, at Captain Butler's, my wife's father-in-law's.

Were you acquainted with her face?—I was.

Did you or did you not see her in the Court at the assizes?—I did not see her to the best of my knowledge.

Mr. DALY—Was Lord Altham there?—He was.

Serjeant TISDALL—Was Cæsar Colclough there?—He was.

Whereabouts was he in the Court-house?—I do not remember whereabouts he was.

COURT—This is improper; it is not regular, Mr. Serjeant. It is evidence to the same fact. Your evidence now must be only to discredit the witnesses.

Serjeant TISDALL—My lord, it is a new fact arisen upon their testimony.

Did you see Lady Altham there at any other assizes?—I did.

At what other assizes?—I cannot tell which assizes, but it was after that, and I have seen Mrs. Giffard with her, and it was not the assizes I was tried.

Are you sure it was not the assizes 1715?—It was not.

Were you tried at that assizes?—I was arraigned, and tried then and acquitted with honour.

Was Mr. Walsh tried at the same time?—He was not tried by the same jury, nor the same day.

Pray, were you both at the same time in Court?—We were, sir.

Mr. RECORDER—I ask you, sir, were you under so little concern as that you reckoned all the ladies in the Court?——

COURT—You establish him as a witness properly produced if you cross-examine him.

JOHN MASTERTON—There were more women that I do not remember.

Serjeant TISDALL—We beg leave to produce Mr. Colclough.

JURY (to Mr. Masterton)—What was the day you were tried on?—I believe it was on Wednesday I was tried, to the best of my memory, and I believe it was the 20th of April.

On what day was Mr. Walsh tried?—Mr. Walsh was tried the day before me.

Did the Court sit the day after you were tried?—I did not mind that, for I was drinking with my friends and minding other business, and did not mind that. I believe the judges discharged the country.

Were you in Court when Walsh was tried?—I was.